

LIMITATION ACT

లిమిటేషన్ చట్టం

(తెలుగు అనువాదం, తీర్పులతో)

By

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"LIMITATION ACT"

(With Telugu Translation and Case Law)

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I have perused the commentary written by Sri. V.V. Ramana and his son V.V. Nagesh Sharma, B.Com, M.L. They have added decided cases of Supreme Court and other High Courts.

They have added Telugu commentary also which is very useful to students and practitioners. I hope this will serve the purpose and I wish them good speed.

(JUSTICE M. NARAYANA REDDY)

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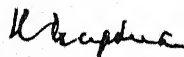
AN OPINION

On " **THE LIMITATION ACT**" By V.V. Ramana, V.V. Nagesh Sharma

I consider it a privilege when an accomplished scholar and Advocate like Mr. V.V. Nagesh Sharma, B.Com., M.L. asks me to write an Opinion on his fine work on the law of limitation. In doing so, I have of course my own limitations concerning familiarity with that subject in particular except as part of the legal process in general. I venture to write, however.

There is a Latin maxim VIGILANTIBUS ET NON DORMIENTIBUS JURA SUBVENIUNT, which means that the laws aid those who are vigilant, not those who sleep upon their rights. The chief virtue of the law of limitation seems to lie in the principle that there must be some limit to every type of legal action and this will aid the fulfilment of the legal process towards dispensation of justice to the party concerned. In the criminal process as well we have recently travelled a good distance in prescribing time limit for different types of criminal actions and prosecutions. In another but allied context of the law of prescription, the celebrated author Salmond brings out in focus the purpose of the law : "Lapse of time is recognised as creative and destructive of rights, instead of merely as evidence for and against their existence. In substance, though not always in form, prescription has been advanced from the law of evidence to a place in the substantive law."

The nuances and the subtle distinctions, the provisos and the exceptions have been competently explained by the author, traversing back and forth between the original language English and the mother tongue Telugu so as to make it handy to the practitioner and easily understandable to the law student. Sri Nagesh Sharma, I know, has several such works to his credit in different fields of law. I congratulate him and summon him to go upwards and achieve greater heights as a worthy man of law.



(K. GUPTESWAR)

INTRODUCTION

The Limitation Act (Act 36 of 1963) has come into force from 1-1-1964. This Act has thoroughly revised, amended and deleted certain sections and articles of the repealed Act of 1908.

It is quite familiar that limitation Act is both procedural as well as substantial Law and there is no field of Law which the Act would not touch, every suit, Appeal, Application, review, revision etc., of all Branches of Law irrespective of its operation whether it is civil or criminal or otherwise is in one way or the other governed by certain period of Limitation.

Under section 3 of the Limitation Act, a duty is cast on the court to dismiss the suit filed appeal preferred or application made after the prescribed period although Limitation has not been set up as a defence, Hence the Act is substantial in its nature.

There is a systematic arrangement of sections and proper classification of articles governing Limitation for filing suits, appeals, applications in all courts, including Supreme Court.

Number of articles are now reduced to 137 and some changes have also been made in granting period of Limitation.

We have added commentary in English, we have given decided cases of Supreme Court and other High Courts. We have also added short commentary in Telugu to facilitate easy understanding of Law to beginners in the profession.

We sincerely hope that learned members of the profession, student community and the Public in general would take it in good spirit and get benefited by the provisions of Law.

We earnestly look forward for any suggestions that may be made to us in connection with the commentaries made by us.

We sincerely thank every reader of this book once again. We thank Dr. POOSHA, Editor of ABHISARIKA Press for Printing the Book in a fine manner.

Authors

V.V. RAMANA & V.V.N. SARMA

KAKINADA

19 - 2 - 2002

THE LIMITATION ACT, 1963

(ACT XXXVI OF 1963)

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THE LIMITATION ACT, 1963

(Act 36 of 1963)

(Published in the Gazette of India Part II, extraordinary, Dated 5th October, 1963)

An Act to consolidate and amend the law for the limitation of suits and other proceedings and for purposes connected therewith.

Be it enacted by parliament in the Fourteenth year of Republic of India as follows:

PART - I

PRELIMINARY

1. SHORT TITLE, EXTENT AND COMMONCEMENT

- (1) This Act may be called the Limitation Act, 1963.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

COMMENTARY

Preamble contains the intention in enacting the Act. The present limitation Act replaces the old 1908 Act, and amends the period of limitation for preferring appeals, petitions etc., This Act came into force from 1-1-1964. This Act extends to whole of India except Jammu & Kashmir.

This Act No.36 of 1963 replaces the old Limitation Act Act No. 9 of 1908.

కాల నిర్ణయ చట్టం (1963) (THE LIMITATION ACT)

వ్యాజ్యములు ఇందుకు సంబంధించిన ఇతర వ్యవహారముల కాల నిర్ణయం - అంతకు ముందున్న లాను సవరించుటకు క్రోడీకరించుటకు ఈ చట్టం ఉద్దేశింపబడినది.

(1) ఇది 1963వ సంవత్సరంలో వచ్చిన కాలనిర్ణయచట్టము.

ఇది పార్లమెంటు ఆమోదమును పొంది 5-10-1963వ తేదీ గల అసాధారణ గెజెటులో ప్రచురణ చేయబడి 1-1-1964వ తేదీనుండి అమలులోనికి వచ్చినది.

ఇది జమ్ము-కాశ్మీర్ రాష్ట్రం తప్ప మిగతా ఇండియా అంతటికి వర్తించును.

Note: ప్రతి వ్యవహారమునకు ఒక కాలనిర్ణయం ఉండును. ఆ వ్యవహారం సకాలంలో జరిగించకపోతే చాలదోషం పట్టించుంటారు. ఏయే వ్యవహారాలకు ఎంత కాలంలో పరిష్కారం నిమిత్తం కోర్టులలో దాఖలు చేయవలెనో దానిని నూచించి నిర్ణయించేదే ఈ చట్టము. దావాలకు (వ్యాజ్యములు Suits) అప్పీళ్ళకు, దీనిజన్లకు, పిటిషన్లకు దాఖలు చేయవలసిన కాలమును నిర్ణయించును. అందచే దీనిని కాలనిర్ణయచట్టం (The Limitation Act) అని పిలవడం చాలా సముచితం.

DEFINITIONS

In this Act, unless the context otherwise requires

(a) "**APPLICANT**" includes

- (i) A Petitioner,
- (ii) Any person from or through whom an applicant derives his right to apply,
- (iii) any person whose estate is represented by the applicant as executor, administrator or to their representative,

(b) "**APPLICATION**" includes a petition,

(c) "**Bill of exchange**" includes a hundi and cheque,

(d) "**BOND**" includes any instrument whereby a person obliges himself to pay money to another, on condition that the obligation shall be void if a specified act is performed as the case may be,

(e) "**DEFENDANT**" includes

- (i) any person from or through whom a defendant derives his liability to be sued,
- (ii) any person whose estate is represented by the defendant as executor, administrator or other representative.
- (f) "**EASEMENT**" includes a right not arising from contract by which one person is entitled to remove and appropriate for his own profit any part of the soil belonging to another or anything growing in or attached to, or subsisting upon, the land of another.
- (g) "**FOREIGN COUNTRY**" means any country other than India.
- (h) "**GOOD FAITH**" Nothing shall be deemed to be done in good faith which is not done with due care and attention.
- (i) "**PLAINTIFF**" includes
 - (i) any person from or through whom a plaintiff derives his right to sue.
 - (ii) any person whose estate is represented by the Plaintiff as executor, administrator or other representative.
- (j) "**PERIOD OF LIMITATION**" means the period of limitation prescribed for any suit, appeal or application by the schedule, and "prescribed period" means the period of limitation computed in accordance with the provisions of this Act.
- (k) "**PROMISSORY NOTE**" means any instrument whereby the maker engages absolutely to pay a specified sum of money to another at a time therein limited, or on demand or at sight.
- (l) "**SUIT**" does not include an appeal or an application.
- (m) "**TORT**" means a civil wrong which is not exclusively the breach of a contract or the breach of a trust.
- (n) "**TRUSTEE**" Does not includes "Benamidar" a mortgagee remaining in wrongful possession without title.

COMMENTARY

This section gives definitions.

Petitioner is also an applicant. Applicant may derive his right to apply through other person say a power of attorney holder, a guardian etc., executors and administrators also come under this definition. Application includes a petition. Bill of exchange includes a Hundi and a cheque. It is in business itself and a popular term. Bond is defined is

an obligation undertaken by a person to pay a certain amount of money if a certain act is done or not done. Defendant is a person who gives an answer to the plaintiff and also a representative of estate, it may be noted that "Easement" does not derive its right from any contract. Good faith is defined as a thing which is not done with due care and attention. But the definition is not complete.

"Plaintiff" includes a person who files the suit for himself or on behalf of Administrator etc., period of Limitation is mentioned appended to this Act. The schedule prescribes period within which the suit, appeal, petition Revision etc., are to be presented to the proper court or Tribunal. If it is not so presented the suit appeal etc., are deemed to have been barred by Limitation. For each suit, appeal or application different periods are prescribed according to the nature of proceeding.

Prescribed period means the time set for presenting suit appeal etc., by the schedule.

Promissory note means a document executed by the maker who may be termed as a "borrower" who undertakes to pay a specified amount to the person mentioned therein either on demand or at sight. It should be stamped according to the amount borrowed. It is necessary to look into the definition of promissory note given in the "Negotiable Instruments Act. Act No 26 of 1881 which is as follows:

"Promissory note is an Instrument in writing (Not being a Bank Note or a currency note) containing an unconditional undertaking signed by the maker to pay a certain sum of money only to the order of, a certain person, or to the bearer of the Instrument.

A negative definition is given to a "Suit". The suit does not include an appeal or an application.

Tort is also defined as not a breach of contract.

"Trustee" for this word also a negative definition is given as a person who is not a Benamidar and a Mortgagee who remains after discharge of Mortgagee debt.

2. నిర్వచనములు

మరియొక విధముగ అర్థము చెప్పుకోవలసిన అగత్యం కలిగేవరకు ఈ క్రింది పదములకు ఇచ్చుట ఈయదిన అర్థమునే గ్రహించవలెను.

అప్లికేంటు అనగా పిటీషనరు అని కూడా తెలుసుకోవాలి. అంతేకాక పిటీషను దాఖలుచేయు అధికారము ఇంతరుల వలన పొందిన ఆసామీ కూడా అప్లికేంటే అగును.

పిటీషను కూడా అప్లికేషనే అగును. Bill of exchange అంటే చెక్కు - హుందీ కూడా కావచ్చును. బాండు అనగా ఎవరైన ఒక ఆసామీ తాను ఇతరులకు ఏదేని పని నిమిత్తము ఈయవలసిన సామ్మును గురించి వ్రాయబడిన పత్రము.

ప్రతివాది అనగా ఎవరిపైన వ్యాజ్యము వేయబడునో ఆ ఆసామీ యున్ను, ఏదేని అస్తిని రిప్రజెంటు చేయు వ్యక్తియు అని తెలుసు కోవాలి. ఈజ్మెంటు హక్కు కాంట్రాక్టు ద్వారా సంక్రమించదు. ఈజ్మెంటు అంటే ఏమిటో "Easements Act" No. V of 1882 Section 4 లో ఈ క్రింది విధముగ వ్రాయబడినది.

"An Easement is a right which the owner or occupier of certain land possesses as such for the beneficial enjoyment of that land to do and continued to do something, or to prevent and continue to prevent something being done, in or upon, or in respect of, certain other land not his own."

విదేశమనగా ఇండియా కాక మరి ఏ ఇతర దేశమైనా సరే.

చూపవలసినంత జాగ్రత్త చూపకుండా ఏదేని వ్యవహారం జరిగిందితే దానిని good faith తో చేయలేదని యర్థము. వాది అనగా వ్యాజ్యము తన తరపున అధికారం పొందిన మరియొక ఆసామీ తరపున వ్యాజ్యము దాఖలు చేయు ఆసామీ అని తెలుసుకోవాలి. కాలనిర్ణయం అనగా ఏదేని దావా (వ్యాజ్యం) అప్పీలు, పిటీషను మొదలగునవి దాఖలు చేయుటకు ఈ Act షెడ్యూలులో నిర్ణయించబడిన కాలవ్యవధానము అని తెలుసుకోవాలి. నిర్ణయించబడిన కాలం అంటే ఈ చట్టం యొక్క షెడ్యూలులో నిర్ణయించ బడిన టైము, కాలము లేదా వ్యవధి అని తెలుసుకోవాలి. ఒక్కొక్క వ్యవహారానికి ఒక్కొక్క గడువు నిర్ణయించబడును. ఆ వ్యవహారంయొక్క స్వభావమును బట్టి ఆ గడువు నిర్ణయించబడినది. ఆ గడువులోగా దాఖలు చేయని యెడల "కాలదోషం" పట్టినదని అందురు. Barred by Limitation.

ఉదాహరణకు ప్రాంసరీనోటుపై దావా చేయుటకు గడువు ప్రాంసరీనోటు వ్రాయించి ఇచ్చిన తేదీలగాయతు మూడు సంవత్సరములు, అదే తనఖా బాకీ అయితే 12 సంవత్సరములు గడువు దాటిన పిమ్మట దాఖలు చేయబడువ్యాజ్యములకు, అప్పీళ్లకు కాలదోషం పట్టినదందురు. అనగా "Remedy is lost" అని తెలుసుకోవాలి. వ్యవహారములన్నియు కాలనిర్ణయాన్ని గుర్తుంచుకొని వ్యవహరించే ఆసామీలకు కోర్టు చేయదగు సహాయం చేయును. సకాలములో కోర్టుకు దాఖలు చేయనివారు నష్టపోదురు. దీనిని బాగుగా గుర్తెరుంగదగును.

“ప్రాంసరీనోటు” అనేది చాలామందికి తెలియును. దీనికి నిర్వచనములు కూడా పైన ఈయబడినవి. ఎవరైన ఆసామీ మరియొక వ్యక్తివద్ద అప్పుచేసిన సొమ్మును అడిగిన తక్షణం ఇచ్చుటకు అంగీకరించుతూ షరతులులేని విధంగా వ్రాసి సదరు ఆసామీకి గాని వాని ఆర్థరుపొందిన మరియొకరికిగాని ఇచ్చుటకు అంగీకరించుతూ వ్రాయించి యిచ్చిన బుణ పత్రం అని తెలుసుకోవాలి.

Suit : వ్యాజ్యం, దావా అనేవి పర్యాయపదాలు అని అందరికి తెలిసినదే. అయితే వ్యాజ్యం అంటే అప్పీలు. అప్లికేషనుకాదు. Tort అనేది నేరము. కాని ఇది ఎగ్రిమెంటును పురస్కరించుకొని రాదు. ఉదాహరణకు ఎవరైనా ఒక ఆసామీ తన స్థలములోనే అయినా పునాదుగాని, నుయ్యిగాని త్రవ్వుచు పొరుగు ఇంటివాని గోడకు గాని ఇంటికి గాని నష్టము కలుగజేస్తే దానిని "TORT" అంటారు. అట్టి నష్టం ఏదైనా కలిగితే దానిని Tortious liability అంటారు. అట్లు కలిగించిన నష్టమును భర్తీ చేయవలసియుండును.

ట్రస్టీ అనే పదముకూడా చాలామందికి పరిచయమే. ట్రస్టీ అంటే ధర్మకర్త. బినామీదార్ గాని, బాకీ తీరిపోయిన తరువాత కూడా ఆస్తిని స్వాధీనమందుంచుకొనిన తనఖాదారుగాని, హక్కులేనిదే ఆస్తి స్వాధీనం కలిగియున్న ఆసామీగాని ట్రస్టీ అవడు.

ఒక ఆసామీకి గాని, సంస్థకుగాని ప్రయోజనం చేకూర్చు నిమిత్తం ఈయబడిన ఆస్తిని మేనేజిమెంటు చేయు ఆసామీని ట్రస్టీ అనదగును. ఉదాహరణకు దేవాలయ భూములను, సత్రం ఆస్తులను, ఇతర సంస్థల నుండి పొందదగు ప్రయోజనములను ఆయా సంస్థలకు సవ్యముగ వ్యయముచేయువానిని ట్రస్టీ లేక ధర్మకర్త అంటారు.

PART - II

LIMITATION OF SUITS, APPEALS AND APPLICATIONS

3. BAR OF LIMITATION :

- (1) Subject to the provisions contained in Sections 4 to 24 (inclusive), every suit instituted, appeal preferred and application, made after the prescribed period although limitation has not been set up as a defence.
- (2) For the purpose of this Act
 - (a) a suit as instituted
 - (i) in an ordinary case when the plaint is presented to the proper officer.

- (ii) in the case of a pauper when his application for leave to sue as a pauper is made, and
- (iii) in the case of a claim against a company which is being wound up by the Court when the claimant first sends in his claim to the official Liquidator.
- (b) any claim by way of a set off or a counter claim shall be treated as a separate suit and shall be deemed to have been instituted.
 - (i) in the case of a set-off, on the same date as the suit in which the set-off, is pleaded.
 - (ii) in the case of a counter-claim on the date on which the counter-claim is made in Court.
- (c) an application by notice of motion in a High Court is made when the application is presented to the proper officer of that Court.

COMMENTARY

This section deals with as to how limitation is calculated, ascertained or determined for several of Court proceedings. In sections 4 to 24 (Both sections inclusive) how determined period of limitation is extended and up-to which time the extension and as to when limitation begins to run. The circumstances under which the period of limitation is extended are made known from sections 4 to 24 say closure of courts, Minority of a person etc.,

It may be seen that the court has got a duty to see whether the suit filed or appeal preferred or application made is within the time prescribed under the schedule appended to this Act and this is made subject to the disabilities confined in sections 4 to 24, If the court finds that a suit is filed or an appeal is preferred or an application is made beyond the period of Limitation and it does not come under any of the exceptions specified in sections 4 to 24, Eventhough the defendant of the respondent do not take Limitation as a ground the court shall dismiss the suit appeal or petition.

Filing of the suit means presentation or plaint to the proper officer appointed for the purpose etc., authorised to receive the plaints etc., In the case of Junior civil Judges the Head Clerk and in the case of senior civil Judges and District Judges it is the "Sheristader or with any other Nomenclature. In the case of Plaints presented by paupers (indigent persons) as to when the plaint is presented to the concerned Judge. The memorandum of appeals shall also be presented to the sheristader or

the appropriate officer authorised to receive them. In the cases of set-off or a counter claim, the period of Limitation would be reckoned from the date on which the defence is filed in the form of a written statement or a plaint.

In the case of a petition to High Court it is on the date on which Motion is presented to the proper officer of the High Court.

Time Barred debt : Remedy to enforce liability is destroyed Debt continues till it is not paid - creditor if he is in possession of security. debt could be adjusted from it. (Panjab National Bank vs. S.P. Sinha, 93(1) An.W.R. 104, 93(1) Sec 499.

వివరణ

ఇది కాల నిర్ణయమును గుణించు లేదా లెక్కపెట్టు విధానమునకు సంబంధించినది.

ఏదైనా వ్యాజ్యముగాని, అప్పీలు లేదా పిటిషనుగాని నిర్ణీత కాలం తరువాతనున్న; అది ఇందుల 4 మొదలు 24 సెక్షనులలో చెప్పబడిన మినహాయింపులలోనికి రానివి అయియున్నయెడల ప్రతివాదిగాని, రెస్పాండెంటుగాని కాలదోషమును defence గా తీసికొనకపోయినను సదరు వ్యాజ్యమును లేదా అప్పీలును లేదా పిటిషనును కోర్టు dismiss చెయ్యాలి/ కొట్టివెయ్యాలి. ఇది కోర్టు తీసికొనదగుచర్య.

అయితే దావా, అప్పీలు, పీటిషను ఎప్పుడు దాఖలు అయినట్లు లెక్కించాలి అనగా: దావా (వ్యాజ్యం) (Suit) ప్లయింటును, వాటిని తీసికొనుటకు నిర్ణయించబడి appoint చేయబడిన officer (Head Clerk) or sheristadar వద్ద దాఖలుచేయబడినతేది అని తెలుసుకోవాలి. హైకోర్టు విషయంలో అయితే మోషన్ దాఖలుచేసిన తేది అని గుర్తించాలి. ప్రాపరు దావా ఆయా జడ్జీలవద్ద ప్రాపరు ప్లయింటు దాఖలుచేయబడిన తేదీనుండి లెక్కకట్టాలి.

4. EXPIRY OF PRESCRIBED PERIOD WHEN

Court is closed : Where the prescribed period for any suit, appeal or application expires on a day when the Court is closed, the suit, appeal or application may be instituted, preferred or made on the day when the Court reopens.

Explanation : A Court shall be deemed to be closed on any day within the meaning of this section if during any part of its normal working hours it remains closed on that day.

COMMENTARY

This section deals with extension of period of Limitation for presenting plaint, appeal or a petition.

If the time for filing a plaint, appeal or petition expires during the closure of courts, they can be presented on the date of re-opening. It is common knowledge that civil courts remain closed for summer vacation, pongal, Dasara and also on Independence Day, Republic Day, Gandhiji Birth day etc., Besides the above, the Government may declare any working day as a Holidays for any specific reason. In all such cases the said suits, appeals and petitions can be presented on the date of re-opening. It is also common knowledge, the Government and the concerned High Court would be informing the subordinate courts as to from which date the courts would be closed and also the dates of re-opening. The explanation makes its clear that it shall be deemed to have been closed (any court) if it remains closed during normal course of working hours say between, 10 AM to 5-30 PM. Also see note at the end of Telugu commentary.

వివరణ

ఈ సెక్షను మొదలు 24వ సెక్షనువరకు ఏయే సందర్భములలో కాలదోష వ్యవధి పొడిగింపబడునో తెలియజేయుచున్నవి. కాలదోషం గడువును పొడిగించువాటిలో మొదటిది సెలవులలో కోర్టులు మూయబడి యుండుట. అందరకు తెలిసినవిషయమేదనగా సివిల్ వ్యవహారములను పరిష్కరించుకోర్టులు వేసవిలోను మూయబడియుండును. అంతేగాక స్వతంత్రదినము, రిపబ్లిక్ దినము, గాంధీ గారి జన్మదినము మొదలగు రోజులలో కూడ మూసియుంచబడును. అట్టి సందర్భములలో ఏదైనా వ్యాజ్యం అప్పీలు లేదా పిటీషను దాఖలు చేయవలసిన గడువు కోర్టులు మూయబడిన రోజులలో ముగిసేయెడల కోర్టులు తెరిచిననాడు దాఖలు చేయవచ్చును. కోర్టులు మూతబడిన కాలం ఏదనగా, ఏదైనా పనిచేయు కాలము అనగా 10 AM నుండి 5-30 PM గా తెలుసుకోవాలి. ఆ సమయంలో కోర్టు మూయబడియుంటే ఆ దినమంతా మూయబడి యున్నట్లే లెక్కించాలి. కోర్టులు మూయబడియుండు తేదీలు, తిరిగి ఏ దినమున తెరిచబడునో ఆ తేదీయు గవర్నమెంటు మరియు ఆయా హైకోర్టులు ముందుగా నోటిఫికేషనుద్వారా తెలియజేయుదురని గ్రహించాలి, అన్ని ఆదివారాలు సెలవులే. అంతేకాక "Negotiable Instruments Act" Act No.26 of 1881 Section 25 క్రింది Notify చేయబడిన సెలవు దినము, ఆదివారములు కూడ కాలదోషంనుండి మినహాయింపు ఇచ్చును.

Sec 25 : When the day on which a promissory note or bill of exchange is at maturity is a public Holiday the instrument shall be deemed to be due on the next preceding business day.

Explanation : The expression public Holidays includes Sunday and any other day, declared by the Central Government by notification in the official Gazette to be a Public Holiday.

Limitation Act applies only to courts and to other forums¹.

The day when the court re-opens; It means the day on which the court actually re-opens although on that day there was no actual sitting, no Judicial work carried out and no Judges sat to adjudicate².

5. EXTENSION OF PRESCRIBED PERIOD IN CERTAIN CASES

Any appeal or any application, other than an application under any of the provisions of Order XXI of code of Civil procedure 1908, may be admitted after the prescribed period if the appellant or the applicant satisfies the Court that he had sufficient cause for not preferring the appeal or making the application within such period.

Explanation : The fact that the appellant or the applicant was misled by any order practice or judgment of the High Court in ascertaining or computing prescribed period may be sufficient cause within the meaning of this section.

COMMENTARY

This is another section which extends period of Limitation for preferring appeals or filing applications, in certain cases. The only exemption or exception to this section is the one prescribed under Order 21 of the code of civil procedure Act V of 1908. Order 21 of the code of civil procedure deals with execution of Decrees. For preferring appeals against orders and petitions arising out of execution of decrees separate periods of limitation are prescribed for separate orders under the C.P. Code, Hence they are virtually exempted from this Limitation Act. This section is in more general terms. This section gives wide discretion to the courts to extend period of Limitation if the appellant or the petitioner satisfies the Court that there is sufficient cause for not filing the appeal or presenting the application. What is a **sufficient cause** is not defined anywhere. So a wide range of causes may be taken as sufficient causes to extend period of limitation. The exemption given to

1. AIR 1953 SC 98.

2. AIR 1970 SC 1477.

this section is in the nature of an "illustration" as to what is a "Sufficient Cause". If the appellant or the applicant is misled by any order, or practice or Judgement of High Court in calculating the period of Limitation is a good "Sufficient Cause" for extending period or Limitation.

Supreme Court and High Courts while dealing with the term "Sufficient Cause" in the reported cases have given guide lines and some of such decided cases are given below and it may be noted that they are not exhaustive.

"Sufficient Cause" should receive liberal Construction so as to advances substantial justice- Mistaken advice given by legal Practitioners is a "Sufficient Cause".

Filing of Appeal Wrong Court - Delay : Appeal filed in Wrong Court is Returned - Application to Condone delay in filing Appeal, anguish Appeal filed in Proper Court - Period that took in the wrong Court - is held Sufficient Cause to Condone delay².

Special Law - Prescribing Limits - Provisions of Special law Prevails³.

When wrong remedy is reported on wrong Advise, facts Prove delay not wilful, Seetions Applicable⁴.

"Sufficeint Cause" cannot be liberally Constructed as Party is Govt., delay must be Satisfactorily be explained⁵.

Copy application struck off and restored, later is available for Computation of Period of Limitation for filing Appeal⁶.

Court while deciding "Sufficient Cause" must record Reasons⁷.

Governments Petitions to condone delay of 414 days in filing Petition to set aside Expire Decree - Dismissed⁸.

law of Limitation even if affects Parties harshly it has to be applied with all its rigour⁹.

1. N. Nukalamma vs Md. Khasim, 71 AP HN 193.

2. Veeraiah vs P. Adinarayana, 82(2) ALT 477.

3. K.V. Gould vs Abdul Subhan, 70(1) APLT 133.

4. G. Abdul Shuker vs Union of India, AIR 73, A.P. 118 = 72 (1) APLJ 59.

5. Spl. Dy. Collector LA vs Nawaf Turaf Yas Jung., AIR 73 A.P. 43.

6. Equal Singh vs A.V. Subba Rao, 72(2) APLJ 45 SN.

7. Dathula Venkatarama vs V.M. Gupta sanother, 2001 (5) ALT 639.

8. Collector, Hyderabad Dist vs T. Shiva Lingam, 2001(6) ALT 616.

9. New India Assurance Co Ltd vs G. Sarada Prasad, 2000(1) LS 272.

Petition to Condone delay of 685 days in filing Petition to set aside Exparte Decree - Reasons are that efforts for Amicable Settlement our of Court were made - not Proved by evidence Delay condonation Petition dismissal was upheld¹.

Petition to condone delay of 3490 days in filing Appeal Dismissed².

1636 days delay in filing Appeal not Condoned.

Exparte Decree - Deposit of Suit Sum : Petitions to condone delay in filing Petition to set aside Exparte decree, Suit Amount need not be deposited.

Delay in filing Appeal due to different opinions Expressed by different Advocates - Delay Condoned.

Delay in filing review Petition by Govt. Condoned if there is reasonable delay Court may not insist on explaining every days' delay.

Section 5 of Limitation Act not applicable to Proceedings under order 21 CPC.

Copy Application for granting copy of Decree was struck off. Second Copy Application without taking recourse to restore 1st Copy Application will not save Limitation for filing Appeal.

Company Matter - Limitation : Section 543 Companies Act does not expressly Exclude operation of Section 5 Limitation Act. Delay is filing Application Condoned.

Claim Petition - No Limitation : Before the Property sold in Public Auction claim Petition can be filed at any time - No Specific Period of Limitation is Provided under the Act.

Ground that there is a strong case in Appeal is no ground to Condone delay of 450 days delay in filing Appeal.

Delay in Filing Appeal - Rights of Parties : When Abnormal delay occurs in filing Appeal, other side acquires vested right under the Act to oppose the delay High Court set aside the order of condonation delay by Appealatc Court.

Sufficient Cause - Liberal Construction : Sufficient Cause to be given liberal Construction to advance Justice - Yet delay not to be Condoned when there is inaction and want of Bonafides.

1. M.V. Govindappa vs R.C. Parvathamma, 2001(4) ALT 746.

2. N. Seni Babu vs N.P. Rao, 2001 (4) ALT 600.

Time runs from date of dissolution of Partnership.

Advocate's Failure to Inform : 883 days in filing Petition to set aside Exparte Decree. Delay caused due to Advocates' failure to inform - Delay was found to be Satisfactory.

Delay Condonation - No equities : Law of Limitation to be applied with all rigour prescribed by statute - Court has not recorded any satisfaction that explanation for delay is reasoning or satisfactory. The order of condoning 566 days delay in filing Appeal by state was set aside.

Petition to Condone delay in seeking set aside Exparte Decree - not allowed.

CLAIM PETITION :

Objection to Attachment : For filing claim petition to objecting to attachment can be filed at any time before Sale. No Specific Period of Limitation is Provided.

No Presumption that Delay in approaching Court is always Deliberate : Rules of Limitation not meant to destroy the rights of parties. They are meant to see that the Parties do not resort to dilatory tactics but seek remedies promptly sufficient cause should receive liberal construction to advance substantial justice - Delay of 56 days in filing Appeal condoned.

938 days Delay in Filing CRP : Hcd Applicants utterly failed to give reasonable explanation Delay not condemned.

3659 days delay in filing Appeal by state not condoned.

Petition to condone delay to set aside Exparte decree allowed¹.

Delay in Filing Appeal : Appeal was filed with 39 days delay - When returned the same was represented with 328 days delay - Right of Appeal extinguishes on expiry of period of Limitation, other party stands with some right. Appeal dismissed as barred by Limitation.

Revision Petition - Filing with 838 days delay : Explanation offered was unsatisfactory Petition and C.R.P. were dismissed².

519 Days delay in Filing Appeals - Yeluru Scam cases - certain amount of Latitude to the State in condoning delay is permissible³.

1. *Eswaraiah vs S. Aeraffor*. 2. *Govt. of A.P. vs Y. Nageswara Rao* 98(5) ALD 49.
3. *LAO, Narsipatnam vs Annam Reddi Musilikhalhi*, 99(5) ALT 74 = 99(5) ALD 376.

Sufficient cause Depends on Facts of Each case¹.

Delay in Adding L.Rs : After 3 years the death of Sole Plaintiff, Legal heirs sought to come on record - Held : Equity cannot be the basis for extending Period of Limitation².

309 days delay in filing special leave petition challenging Acquittal of Accused under Adulteration Act Delay not condoned as sufficient cause is not shown³.

Employees Suit : Seeking declaration that the order of discharge from service was illegal filed within 3 years from date of communication of order of rejection by Department is not barred by Limitation⁴.

"Sufficient cause" must be construed liberally construed to advance substantial justice. 7 days delay in filing appeal condemned.

Arbitration Act - Condonation of Delay : In appropriate cases court can extend benefits under section 5 of Limitation Act. Having regard to nature of dispute, delay caused in filing Application, delay held liable to be condoned on payment of Rs. 20,000/- as costs.

Mortgage Final Decree Petition : Petition to Pass Mortgage was filed after three years from date of the preliminary decree but within 6 months time given in the Decree for payment - Held that delay deserves to be condoned⁵.

Review petition filed after 2030 days delay - delay held due to wanton carelessness and clear Negligence in the Conduct of the State⁶.

Limitation Act - Application : The Act applies only to proceedings before courts. The Act has not application to Appeals on applications before Quasi Judicial Tribunals and administrative Authorities⁸.

Writ Petition - Limitation : No Limitation is prescribed for the purpose of filing a Writ Petition against any executive action⁹.

Labour Courts : The Limitation has no application to Labour Courts.

1. Mowa Anjama vs A. Anasuya, 99(1) ALT 327 \ 99(1) ALD 398.

2. P. Ram Babu vs T. Seetaramacharya, 1998(6) ALT 376.

3. AIR 1999 SC 738.

4. AIR 1986 SC 508.

5. AIR 2001 SC 2582.

6. SBH vs Y.V. Reddy, 2002(1) ALD 261.

7. State of A.P. vs Bondapalli Sanyasi, 2002 (2) ALD 1.

8. AIR 85, SC 1279.

9. 86, SC 756.

Election Petitions : Limitation Act has no application to election petitions, for filing Election Petitions¹.

Sufficient Cause : Word should receive a liberal construction to advance Justice.

Adding legal Heirs : Applicants are Agriculturists, very young having little knowledge about steps to be taken Delay condoned².

Event - After Expiry of Period : No Event or circumstances arising after expiry of Limitation can constitute "Sufficient Cause"³.

Services - Limitation : Suit for declaring order of discharge from services to be illegal within 3 years from date of Communication of order of rejection of revision by state Govt not barred⁴.

Successful Party's Valuable Rights : Right Secured by Successful party should not be deprived.

Due diligence : Must be period Last date for filing Appeal and the date on which it was filed⁵.

State Appeals : Pragmatism and Justice oriented approach would justify the certain amount of Latitude in disposal of applications made by state under section 5⁶.

Strong Case - Adding LR's : A No Cause shown for condonation of delay for setting aside abatement - Appeal dismissed in view of abatement. Strong case not a ground for condoning delay⁷.

Litigant to be Vigilant : Every day's delay to be explained. This is not applicable when Appeal was filed in time and there is irregularity in presenting⁸.

Each day's Delay : The doctrine must be applied in a rational common sense pragmatic manner⁹.

Wrong proceedings : Delay caused by wrong proceedings as contemplated under section 14 is ground to condone delay¹⁰.

Negligent : A Cause arising from negligence of the Party cannot be said to be beyond the Control of the Party and cannot of the Party and cannot be sufficient cause within the meaning of this section¹¹.

1. AIR 94, SC 512.

4. AIR 86, SC 508.

7. 81, SC 1921.

10. AIR 74, SC 650.

2. AIR 87, (Supp), Sec 685.

5. AIR 62 SC 361.

8. AIR 77, SC 2221.

11. AIR 87, SC 45.

3. AIR 81, SC 733.

6. AIR 96, SC 1623.

9. AIR 87, SC 1353.

Insurance Company - Appeal Against Award : Condonation cannot be refused on ground that manager of Company is not an illiterate or so ignorant person. Who could not calculate period of Limitation and that such Appeals are filed by such companies daily¹.

Agent - Negligence : If Party simply relied upon the Agent without anything more, neglect of the other².

Mistake of Law : Which is committed Bonafide in spite of the care and attention has been regarded as sufficient cause³.

Specific Performance Decree : Orders extending time to deposit balance sale consideration would not result in Amending Decree⁴.

Addition of Legal Heirs : Inordinate delay in bringing legal representatives on record - Delay condoned lest public interest should suffer⁵.

Finding of Fact : High Court will not enter into the findings of fact on the question of sufficient cause so long as it has been arrived in consonance with law⁶.

వివరణ

ఏయే సందర్భములలో కోర్టు ఏదేని ఒక అప్పీలును గాని, అప్లికేషన్ గాని నిర్ణయించబడిన గడువు అతిక్రమించిన తరువాత కూడ అనుమతించ దగునో (admit చేయదగునో) ఇది వివరించుచున్నది. ఏ కోర్టులోనైనా నిర్ణయించబడిన గడువు అతిక్రమించిన తరువాత దాఖలుచేయబడిన అప్పీలును గాని, అప్లికేషనుగాని గడువులోపుగా దాఖలు చేయుటకు వీలు పడలేదని తగినంత కారణం (Sufficient Cause) చూపించితే ఆ అప్పీలును లేదా ఆ అప్లికేషనును కోర్టు ఆమోదించి admit చేసికొనవచ్చును. అయితే ఈ సెక్షనుకొక మినహాయింపుకలదు. అదేదనగా civil procedure code Act V of 1908 లో order 21 క్రింద వచ్చేడి కొన్ని పిటిషన్లు, ఆర్డర్లపై చేసికొనదగు అప్పీళ్ళు ఈ సెక్షనునుండి మినహాయించబడినవి. ఆయా అప్పీళ్ళకు ఆ order లోనే కాలవ్యవధి నిర్ణయించబడినది. అందుచే అది తప్ప మిగతా వ్యవహారములన్నిటికి ఈ సెక్షను వర్తిస్తుంది. అయితే “తగిన కారణం” (Sufficient Cause) అనే పదానికి ఎచ్చటను నిర్వచనం ఈయలేదు. అందుచే ఈ పదమునకు విశాలమైన వ్యాఖ్య సుప్రీంకోర్టు ఆయా హైకోర్టులు ఇచ్చినవి. కొన్ని తీర్పులను ఇందు చేర్చినాము. వాటిని పరిశీలింప కోరెదము. అయితే ఎవరైనా ఆసామీ హైకోర్టు జారీ చేసిన order practice లేదా జడ్జిమెంటును అవగాహన చేసికొనుటలో తేడా ఉన్న యెడల దానికి “తగిన కారణం” క్రింద జమకట్టవచ్చునని Explanation లో తెలియజేయబడినది.

1. AIR 79, SC 1666.

3. AIR 86, SC 1556.

5. 1988, SCC (Supple) 172.

2. AIR 77, SC 2319.

4. AIR 78, SC 537.

6. AIR 64, SC 1336.

REPORTED CASES

Sufficient Causes : Section 5 has to be liberally construed¹.

Where appellant is prevented from filing an appeal on account of her having had an abortion, delay of 90 days was condoned².

Wrong advice of legal advisor will amount to a sufficient cause only when the advice is in itself Bonafide³.

Court is armed with power to condone delay. Discretion is given to the court to condone delay and admit appeal to advance substantial Justices⁴.

Mistake in calculation of days by the counsel Bonafide Mistakes can be condoned⁵.

The Law of Limitation operates equally for or against private individual as also a Government⁶.

For setting aside exparte Decree under order 9 Rule 13 and against the order the appeal filed beyond the period of limitation by A.P. Govt. on the ground that the delay is caused in inter-departmental correspondence it was held that it is not a sufficient cause⁷.

The delay caused in the Railway establishment cannot be distinguished from an ordinary litigant. Delay not condoned⁸.

Erroneous belief that no decree copy sheet is to be attached to the memorandum of appeal was held to be a sufficient cause to excuse delay⁹.

Forgetfulness or oversight of counsel to file appeal due to the illness of his sister - in- law and mixing of papers with other papers is held to be a sufficient cause to condone delay¹⁰.

1. 1941 (2) M L J, Page 873.

3. A I R 1985 Patna 212.

6. A I R 1967 Page 24, Rajasthan.

9. A I R 1961 Pun. 81.

5. Punjab University, A.S. Ganesh, A I R 1972 S C Page 1973.

7. Govt. of A.P. Vs B. Balayya, AIR 1985 AP 52.

2. A I R 1954 Mysore, Page 86.

4. A I R 1999 Bom 235.

8. AIR 1983 Cal 21.

10. AIR 1960 cal 574.

Marriage of appellant and who is engaged in the function - Delay in filing the appeal can be condoned¹.

mistake of counsel Privy council held as follows in AIR PC 276 and it was followed by the supreme court of India².

"Mistaken advice given by a legal practitioner may in the circumstances of a particular case give rise to" sufficient cause within the section though there is certainly no general doctrine which saves parties from the results of wrong advice"³.

Mistake of Court or its Officer : The litigant public have to be protected against default committed or negligence shown by the court or its Officers in the discharge of their duties no act or courts should harm litigant and it is the bounden duty of courts to see that if a person is harmed by a mistake of the court he should be restored to the position he would have occupied but for that mistake; It is aptly summed up in the maxim "Actus Curai Nemi Nem Gravafit" Delay can be condoned⁴.

Mistake of counsel's clerk : A party should not suffer for the mistake of the clerk of the counsel when no intelligence or inaction nor want of bonafide is imputable to him⁵.

Negligence of Counsel : Delay of 1 days in filing the appeal is condoned⁶.

Poverty : Mere non-availability of funds for obtaining the requisite certified copies is no ground for extension of time⁷.

Substantial question of Law : Where in a case of substantial question of Law is involved the delay may be condoned under this section⁸.

Each day's delay must be explained : A litigant who is not vigilant about his rights must explain every day's delay⁹.

But a court of law cannot require such a person to explain the delay with mathematical precision¹⁰.

Condonation of delay requires that each day's delay must be explained¹¹.

1. A I R 1980 Gauhati Page 60.

2. Kunwar Rajendra Singh vs Raj Rajeswar Bahl.

3. India Insurance Co. vs Nirmala Devi, AIR 1979 SC 1666.

4. AIR 1966 SC Page 1631.

6. AIR 1983 Goa 24.

8. AIR 1970 Pat. 89 Page.

10. A I R 1977 All 549.

5. AIR 1979 Del 26.

7. AIR 1970 Pun. 282.

9. AIR 1976 Act. Page 159.

11. A I R 1995 MP 160.

Himachal Pradesh High Court is pleased to observe that the principle of explaining each day's delay is not applicable in applications to bring L/Rs on record in Land acquisition proceedings¹.

Appeal converted into revision : ²It was held that the delay in filing an appeal into a Revision can be condoned.

Condonation : Power to condone delay is discretionary; A party is not entitled to condonation of delay even though a sufficient cause is shown because after a sufficient cause is shown the court has to enquire as to whether in its discretion it should condone the delay³.

DISCRETION :

How to be exercised : The discretion given by this section is very wide and ought to be exercised upon principles which are well understood⁴.

Necessity of filing a formal application : Language of the section does not provide that an application in writing must be filed before relief under this section can be granted. Filing of a formal application for excusing delay is not a sine qua Non for exercise of the power under this section⁵.

Section 151 CP Code : When there is a specific provision in the Limitation Act, prescribing the period of limitation, that period cannot be got over by resorting to the power under sec 151 of C P Code. In other words the courts have not inherent power to condone delay though it had certain power to condone the delay under this section if the cause shown is sufficient⁶.

Burden of Proof : The Law imposes the burden of proof on the appellant or applicant to furnish grounds, Justifying grounds of delay⁷.

Revision : An order refusing to extend time under this section is revisable⁸.

Collector acting under Sec.18 of Land Acquisition Act is not a court provisions of Limitation Act cannot apply⁹.

Delay condonation sec 5: petition by central Government: Delay of 439 days. Affidavit of petitioner is vague No valid grounds to condone inordinate delay petition dismissed¹⁰.

1. AIR 1982 Him. Pra. 4.

3. AIR 1954 SC 411.

5. AIR 1981 Del 26.

7. AIR 1960 SC 260.

9. AIR 1983 Bom 342

2. AIR 1941 Nag.308.

4. AIR 1954 SC 411.

6. AIR 1973 Pat 358.

8. AIR 1942 Mad 604.

10. 2000 (1) ALT Page 656.

Sec.5 condonation of delay principles to be applied¹.

Time spent by Government in seeking instructions from authorities to prefer appeal. Not a good ground to condone administrative delay².

Delay in filing an appeal due to different opinions expressed by different advocates can be condoned³.

Statements made by appellant cannot be said to be inconsistent and being the manner in which appellant came to know of the decree interference by High Court with order condoning delay on the ground of inconsistency of statements not proper. Appeal is allowed⁴.

Sec.5 Limitation Act : Condonation of delay in filing the applications on ground of ill-health and in another application on the ground of absence on business Trip - Not proper appeal is allowed and the Judgement of Madras High Court is set aside⁵.

(Sufficient cause should receive liberal Construction⁶).

Mistake is Calculation of days - delay can be condoned⁷.

Prosecuting in another Court on Wrong Advice is sufficient Cause to Condone delay⁸.

309 days delay in filing special leave petition challenging Acquittal of Accused under Adulteration Act Delay not condoned as sufficient cause is not shown⁹.)

6. LEGAL DISABILITY

- 1) Where a person entitled to institute a suit or make an application for the execution of a decree is at the time from which the prescribed period is to be reckoned, a minor or insane, or an idiot, he may institute the suit or make the application within the same period after the disability has ceased, as would otherwise have been allowed from the time specified therefor in the third column of the schedule.
- 2) Where such person is, at the time from which the prescribed period is to be reckoned, affected by two such disabilities, or where, before his disability has ceased, he is affected by another disability he may institute the suit or make the application within the same period after both disabilities have ceased, as would otherwise have been allowed from the time so specified.
- 3) Where the disability continues up to the death of that person his legal representatives may institute the suit or make the application within the same period after the death as would otherwise have been allowed from the time so specified.
- 4) Where the legal representatives referred to in subsection (3) is at the date of the death of the person whom he represents affected by

1. 2000 (1) ALT 444, *State of AP vs Allu Swamy Naidu*.

2. *R. Janakirama vs State of AP*, 1978 (2) An.W.R. Page 7.

3. *N. Atchyutaramayya vs U. Chandravati*, 1989 (2) ALT 43 NRC.

4. *Jagadeesh Swamy vs Harbans Singh*, A I R 2000 SC Page 3143.

5. *K. A. Ammal vs T. V. Thomas*, AIR 2000 SC Page 3462.

6. AIR 1969, S.C. 575.

8. AIR 1984, S.C. 1732.

7. 1979 AIR, S.C. - 1666.

9. AIR 1999 SC 738,

the such disability the rules contained in sub-section (1) (2) shall apply.

- 5) Where a person under disability dies after the disability ceases but within the period allowed to him under this section, his legal representatives may institute the suit or make the application within the same period after the death as would otherwise have been available to that person had he not died.

Explanation : for the purposes of this section minor includes a child in the womb.

COMMENTARY

This section deals with extension of period of prescribed limitation for instituting a suit or presenting a petition to execute a Decree under circumstances mentioned therein they are:

If the period of limitation expires during Minority of the concerned person the suit can be instituted or application for execution can be filed after the minor attains majority.

It may be noted that period of limitation begins to run from the date of attaining majority.

Under the Indian Majority Act (after the amendment) whether a guardian is appointed to this person or properly or for both or not on completion of 18th year. In calculating attaining majority and limitation the date on which the person completed 18th year should be omitted. From the next day it should be reckoned.

Under the explanation appended to this section a child in the womb is also treated as a minor. The only embargo the child should be born alive.

The disability of minority ceases on his or her attaining majority.

Similarly if a person is suffering from either insanity or idiocy the period of limitation to institute suit would be extended until the person ceases to be an insane or an idiot. It may be noted that the disabilities of insanity and idiocy are of different categories and it is very difficult to exactly reckon as to when the person became normal and the section is wide enough to allow all types of both disabilities. The period of limitation for instituting a suit or filing an application for execution of a decree from the date when the person becomes free from the diseases.

The Act postulates another type of situation in case of two disabilities.

If a person is suffering from two types of disabilities mentioned in clause (1) the suit or application can be made after both the disabilities have ceased to exist. For example a person is insane up to his 16th year, his minority continues until he attains majority. So the period of limitation would be extended until the second disability of minority also ceases.

Similarly the cases of Minority and idiocy or idiocy and insanity. Whatever may be the nature of inability the period of limitation would be extended until both the disabilities cease to exist. But the time would be reopened from the date the person become from such disability or disabilities to illustrate if a person has to file a suit or an application to execute a decree for which the period of limitation is 12 years and the person is free from the disabilities after 9 years period is over that person should institute the suit or file the petition with in the remaining period of limitation of 3 years.

The third clause enables the Legal Representatives of a person who dies while suffering from one or other of the disabilities to institute the suit or file the application for execution of decree and within the period which the person died would have filed had he been alive. That means the period of limitation is extended up to the limit prescribed had the person tainted with disability would have filed.

To illustrate if a person who is having two more years for instituting the suit or filing an application to execute the decree dies his legal representatives can institute the suit or file the application within two years from the date of the death of such person.

The 4th clause gives the same benefit to the Legal Representative who is entitled to institute the suit or file the application i.e., extension of period of Limitation if he is suffering from any of the disabilities mentioned in clauses 1 and 2 vis., Minority, insanity or idiocy and further suffering from one or more disabilities.

The sub clause (5) makes it clear that if the person suffering from any disability dies after the disability ceases and within the period of limitation, the Legal representative can institute the suit or file the application to execute the decree with in the balance of period of limitation left over by the deceased had he not died. To illustrate if a person attains majority and by the date of attaining majority that person is having 3 months time to prefer the suit or file the application dies after one month, his legal representative can institute the suit or file the application to execute the decree within the balance period of two months.

వివరణ

ఏదైనా దావా దాఖలు చేయుటకు గాని డిక్రీ అమలుచేయుటకు పిటీషను దాఖలు చేయుటకు నిర్ణయించబడిన గడువును ఏయే సందర్భములలో పొడిగించవచ్చునో ఈ సెక్షను తెలియజేయుచున్నది.

Minority (శైశవము): ఒక వ్యక్తికి 18 సంవత్సరముల వయస్సు నిండువరకు మైనరు అనబడును. వాని ఆస్తికి, వ్యక్తికి కూడా కోర్టు గార్డియన్‌ని ఎప్పాయింట్ చేసివా 18 సంవత్సరముల వయసు నిండినంతనే ఆ వ్యక్తికి మెజారిటీ వచ్చినదని చెప్పబడును.

Insanity (ఉన్మాదము లేక పిచ్చి): ఇది చాలా తరగతులలో ఉండును. అయినను విశాలమైన నిర్వచనమునే గైకొనవచ్చును. అటులనే **Idiocy (మూఢత్వము)** ఇది కూడా అటువంటిదే.

పైన వ్రాయబడిన మూడు అనర్హతలకు గురియైన వ్యక్తి (disabilities) ఆ అనర్హత తొలగించబడేవరకు తాను దాఖలు చేయవలసిన దావాగాని అమలు పిటీషను గాని దాఖలు చేయుటకు కాలనిర్ణయము పొడిగించబడును. ఉదాహరణకు ఒక వ్యక్తి మైనరుగా ఉన్నప్పుడు దావా గాని పిటీషనుగాని దాఖలు చేయవలసిన కాలనిర్ణయగడువు ముగిస్తే- అట్టి గడువును మెజారిటీ వచ్చిన తేదీనుండి లెక్కింపబడును.

అటులనే ఉన్మాదము మూఢత్వముతో బాధపడు వ్యక్తులవిషయంలో కూడా ఆయా అనర్హతలు తొలగిపోయేవరకు కాలనిర్ణయ గడువు పొడిగించ బడునని గుర్తించాలి.

ఒకే వ్యక్తికి రెండు అనర్హతలు సంభవించవచ్చును. అట్టి సందర్భములలో రెండు అనర్హతలు తొలగిపోయిన పిమ్మటనుంచి ఆయా దావాకు లేదా పిటీషనుకు గడువును లెక్కించవలెను.

అనర్హతలకు లోనైన వ్యక్తి మరణించితే, మరణించిన వాని వారసులు- అనర్హతకు లోనైన వ్యక్తి జీవించే ఉంటే ఏ గడువులోపుగా దావాగాని పిటీషను గాని దాఖలు చేయగలిగియుండునో ఆ గడువులోపుగా వారసులు దాఖలు చెయ్యాలి.

మరణించిన వ్యక్తియొక్క వారసుడు గూడ ఏదేని అనర్హతకు లోనైతే ఈ సెక్షను యొక్క ఒకటి-రెండు సబ్‌క్లాజులలో చెప్పబడిన ప్రకారం దావా గాని, అమలు పిటీషను గాని దాఖలు చేయుటకు నిర్ణయింపబడిన కాలము పొడిగింపబడును.

ఒకవేళ పైన చెప్పబడిన అనర్హతలలో దేనికైన గురియైన వ్యక్తి- సదరు అనర్హతనుండి బైటపడి- మరణించినట్లైతే వాని వారసులు మరణించిన వ్యక్తి జీవించే ఉంటే సదరు దావాగాని, అమలు పిటీషనుగాని దాఖలు చేయుటకు ఎంత గడువు మిగిలియుండెనో ఆ మిగిలిన గడువులోపుగనే దాఖలు చెయ్యాలి.

SEE THE UNDER MENTIONED CASES

To avail the benefit of the provision of sec 6 the disability must be there by the time the period of Limitation begins to run¹.

It was held in the above case that the privilege of extension of period of limitation to file a suit or an application to execute a decree is personal and it cannot be exercised by his Transferee².

It was held that a suit filed by a Minor within 3 years from the date of attaining majority, though exact date of birth is not available cannot be dismissed on the ground that it is barred by Limitation³.

The mere fact that a guardian has been appointed to the person of an Insane, person does not deprive him from claiming protection of section 6 of the Act⁴.

Applicability of this section to any special or Local Law. It is submitted that unless it is expressly taken away by any special or local law (under section 29 of The Limitation Act) this section is applicable to such local or special law.

7. DISABILITY OF ONE OF SEVERAL PERSONS

Where one of several persons jointly entitled to institute a suit or make an application for the execution of a decree is under any such disability, and a discharge can be given without the concurrence of such person time will run against them all, but, where no such discharge can be given time will not run as against any of them until one of them becomes capable of giving such discharge without the concurrence of the others or until the disability has ceased.

Explanation-I : I, This section applies to a discharge from every kind of liability, including a liability in respect of any immovable property.

Explanation-II : For the purpose of this section, the manager of Hindu undivided family governed by the mitakshara law shall be deemed to be capable of giving a discharge without the concurrence of the other members of the family only if he is in management of joint family property.

1. AIR 1954 Mad 831.

3. AIR 1984 Guj. 32.

2. AIR 1956 Mad Page. 15.

4. AIR 1934 All. 434.

COMMENTARY

This section relates to giving a valid discharge relating to immovable property belonging to more persons than one who have been suffering from any or the disabilities. If any one person is capable of giving a valid discharge and without the concurrence of others the time begins to run against all persons i.e., including those persons who are still under disability.

If a person who is the manager (Karta) of a Hindu Joint family governed by Mitakshara Law is in management of the property he (the manager) can give a valid discharge of the satisfaction of decree etc., It may be noted that in a joint Hindu family there may be Minor coparceners whom the manager represents, Hence the discharge given by manager would ensure for the benefit of a creditor.

Decree - Valid Discharge : A manager of the Hindu Joint Family can give valid discharge when a decree is passed in favour of it¹.

వివరణ

ఒకరికి మించి ఎక్కువమంది సభ్యులు అనర్హతలకు లోనై ఉంటే వారందరు దాఖలు చేయదగిన వ్యవహారంలో ఏ ఒక్కరైన అనర్హతలనుండి బయట పడితే మిగిలిన సభ్యులతో నిమిత్తం లేకుండా discharge ఇవ్వగలిగితే కాలం లెక్కించుట ఆ ఒక్కనికి అనర్హత తొలగిన నాటినుండి అనియు అది అందరికీ వర్తించుననియు తెలుసుకోవాలి.

ఇదే మితాక్షర జాయింటు కుటుంబ సభ్యుల విషయంలో మేనేజరు అస్థిని మేనేజిమెంటు చేయుచున్న యెడల అట్టి మేనేజరు (కర్త) తన మైనరు కోపార్షినర్లు (సభ్యుల) తరపున valid discharge ఈయగలడు, అతడిచ్చిన discharge మిగిలిన సభ్యులందరిని Bind చేయునదిగా యుండును².

This section refers to discharge of not only monetary claims but also that of all liabilities as well³.

A Co-Mortgagee cannot give a valid discharge in respect of the mortgage debt so as to bind his co-mortgagees unless the contrary is shown⁴.

One co-heir cannot give a valid discharge of a debt without the concurrence of other co-heirs. A payment to a co-heir would not amount to a valid discharge.

1. AIR 61, SC 1074.

2. AIR 1961 SC. 174, Sarada Prasad vs Jamuna Prasad.

3. A I R 1934 Cal. Page 1, Satish Chandra Sen Vs. Jeevan Lal.

4. AIR 1933 Bom 245.

8. SPECIAL EXCEPTIONS

Nothing in section 6 or in section 7 applies to suits to enforce rights of pre-emptions or shall be deemed to extend for more than three years from the cessation of the disability or the death of the person affected thereby, the period of limitation for any suit or application.

COMMENTARY

This section controls the rigour of what is contained in sections 6 and 7 in respect of extending period of Limitation in cases relating to pre-emptions and the period of Limitation prescribed for such suits is 3 years from the date of cessation of the disabilities or death.

వివరణ

ఇందులో 6,7 సెక్షన్లలో ఈయబడిన అవకాశాన్ని ఈ సెక్షను 3 సంవత్సరాలకి కుదించుతుంది. pre-emption దావాలు మొదలగునవి అనర్హత తొలగిపోయిన 3 సంవత్సరాల లోపుగానే దాఖలు చెయ్యాలి.

This section is a proviso to sections 6 or 7, AIR 1995 SC 75.

9. CONTINUOUS RUNNING OF TIME

Where once time has begun to run no subsequent disability or inability to institute a suit or make an application stops it:

Provided that, where letters of Administration to the estate of a creditor have been granted to his debtor the running of the period of limitation for a suit to recover the debt shall be suspended while the administration continues.

COMMENTARY

This section deals with running or period of limitation. This is in most general terms. There is only one exception which is mentioned in the explanation.

For filing suits or applications different periods of Limitation are provided in schedule I of this Act. The period of Limitation is provided having due regard to the nature of proceeding.

It may also noted that there is no separate Limitation Act for the criminal proceedings.

When once the period of Limitation begins to run no subsequent disability stops it. Disabilities are mentioned in the Act itself Minority, Insanity, Idiocy etc., are some of those disabilities. Hence, there can be no break in the running of time under any circumstances except they are provided under the Act.

వివరణ

ఇది కాలభ్రమణమునకు సంబంధించిన సెక్షను. భ్రమణము అనగా పరుగెత్తుట. ఒకమారు కాలభ్రమణము మొదలైనచో తరువాత వచ్చేది అనర్హతలు సదరు పరిభ్రమణమును (running of time) ఆపజాలరు. ఒకే ఒక మినహాయింపు ఇందుల వివరణ ఒక్కటియే.

ఈ సెక్షనుకు మినహాయింపు ఏదనగా ఏదేని Estate Management చేయుటకు administrator చేయుటకు "Letters of Administration debtor (బాకీ దారునికి) అప్పగించబడితే సదరు debtor పై వ్యాజ్యం వేయుటకు సదరు estate administration పూర్తియగువరకు పొడిగింపబడును. అనగా Estate ను administrator చేయుకాలము మినహాయింపబడునని తెలుసుకోవాలి.

10. SUIT AGAINST TRUSTEES AND THEIR REPRESENTATIVES

Notwithstanding anything contained in the foregoing provisions of this Act, No suit against a person in whom property has become vested in trust for any specific purpose or against his legal representatives or assigns (Not being assigns for valuable consideration for the process thereof, or for an account of such property, or the proceeds shall be barred by any length of time.

Explanation : For the purposes of this section any property comprised in a Hindu, Muslim or Buddhist religious or charitable endowment shall be deemed to be property vested in trust for a specific purpose and the manager of the property shall be deemed to be the trustee thereof.

COMMENTARY

This section relates to recovery of properties or their proceeds relating to a Trust which are in the hands of a Trustee. Irrespective of the fact whether such properties relate to a Hindu, Muslim, Buddhist Trust. There is no period of Limitation prescribed to recover the said property which are vested in the Trustee or his legal representative or his assignee/

The explanation makes it clear that the property vested in the Hindu Endowment, Buddhist or Muslim even for a specific purpose shall be deemed to be a property of the trust and the manager is called a Trustee.

This section deals with recovery of property or proceeds relating to any religion vis., Hindu, Buddhist or Muslim which are vested in a person. No period or Limitation is provided to file a suit or an application to recover the said assets of a Trust. The underlying principle is that the Trust shall not suffer by reason of lapse of Time.

వివరణ

ఇకముందు చెప్పబోవు సెక్షనులలోని ఏవి ఎటున్నను హిందు-బుద్ధిస్టు, ముస్లిం, దేవదాయ ధర్మాదాయ సంస్థలకు సంబంధించిన ఆస్తులు, సొమ్ములు రాబట్టుటకు అనగా సదరాస్తులను మేనేజిమెంటు చేయుచున్న వ్యక్తివద్దనుండి గాని, వాని వారసులవద్దనుండి గాని రాబట్టుటకు వ్యాజ్యము మొదలగునవి వేయుటకు కాలనిర్ణయము (గడువు) ఏదీయు లేదని గ్రహించదగును. సదరాస్తులు ఎవనియందు vest అయి యున్నవో సదరు ఆసామీని ప్రస్తావించారు.

హిందూ-ముస్లిం-బుద్ధిస్టు మత సంస్థలకు ఈయబడిన ఆస్తులు వాటిపై వచ్చెడి ఆదాయము ఎందునిమిత్తము ఈయబడినను సరే పైన వ్రాయబడినట్లే అమలుజరుగును.

CASE LAW

This should be read along with section 63 of The Indian Trusts Act. The remedies provided under the section are not exhaustive.

A Mutawalli cannot setup adverse Title to the property donated and can be recovered from the donee of a Mutawalli².

1. AIR 1962 SC 633.

2. AIR 1999 SC 1136.

11. SUIT ON CONTRACTS ENTERED INTO OUTSIDE THE TERRITORIES TO WHICH THE ACT EXTENDS

1) Suits instituted in the territories to which this Act extends on contracts entered into in the state of Jammu and Kashmir or in a Foreign Country shall be subject to rules of limitations contained in this Act.

2) No rule of limitation in force in the state of Jammu & Kashmir or in a Foreign Country shall be a defence to suit institute in the said territories on a contract entered into in that state or in a foreign country, unless...

(a) the rule has extinguished the contract, and

(b) the parties were domiciled in that state or in the foreign country during the period prescribed by such rule.

COMMENTARY

This section deals with application of this Limitation Act to foreign countries and also that of Jammu and Kashmir, The suits instituted on the basis of contracts entered into by the foreign countries or the state of Jammu & Kashmir if the suits are filed in any state to which this Limitation Act applies are subject to the provisions of this Limitation Act (Act 36 of 1963)

This second sub-section debars the defence that the Limitation provided in Jammu and Kashmir or a foreign country to any suit filed in the territories of India to which this Limitation Act applies. There are only two exceptions viz., If the rule extinguishes the contract or if the person instituting the suit a domicile of that court.

వివరణ

ఇది విదేశీ కాంట్రాక్టులకు సంబంధించిన సెక్షను. కాంట్రాక్టులు విదేశాలలోను, జమ్ము-కాశ్మీర్‌లోను ఏర్పరచుకొనినను ఈ కాలనిర్ణయ చట్టము వర్తించు రాష్ట్రములలో దావా వగైరాలు దాఖలు చేసినయెడల ఆయా కాంట్రాక్టులకు ఈ చట్టమే వర్తించునని తెలియదగును. అనగా contract మరియొక దేశంలో enter అయినను దానిని ఆధారంగా ఈ చట్టము వర్తించు రాష్ట్రములలో దావా దాఖలు చేస్తే ఈ Limitation Act మాత్రమే వర్తించును. ఆ విదేశీ చట్టము కాదు.

PART - III

COMPUTATION OF PERIOD OF LIMITATION

12. EXCLUSION OF TIME IN LEGAL PROCEEDINGS

1) In computing the period of limitation for any suit, appeal or application, the day from which such period is to be reckoned shall be excluded.

2) In computing the period of limitation for any appeal or an application for leave to appeal or for revision or for review of a judgement the day on which the judgement complained of was pronounced and the time requisite for obtaining a copy of the decree, sentence of order appealed from or sought to be revised or reviewed, shall be excluded.

3) Where a decree or order is appealed from or sought to be revised or reviewed, or where an application is made for leave to appeal from a decree or order the time requisite for obtaining a copy of the judgement on which the decree or order is founded shall also be excluded.

Please Note : For the words on which the decree or order is founded omitted by sec.33 of C.P.C. (Amendment) Act, 1999).

4) In computing the period of limitation for an application to set aside an award, the time requisite for obtaining copy of the award shall be excluded.

Explanation : In computing under this section the time requisite for obtaining a copy of decree or an order any time taken by the court to prepare the decree or order before an application for a copy thereof is made shall not be excluded.

COMMENTARY

This section gives directions as to how the period of Limitation shall be calculated for several proceedings viz., appeals, revisions, reviews, orders, decrees etc., In calculating the period of limitation for filing any suit, appeal or application the day from which instituting the suit a domicile of that country.

The period shall be reckoned is to be excluded.

Again in calculating the period of filing an appeal an application

for special leave or revision or review the day on which the Judgement complained of is delivered is to be excluded.

Further the time taken to obtain a copy of decree against which an appeal, an application for leave, for revision or review shall be excluded. The reason behind it is that it is the duty of the court to provide with the Judgement and decree and hence that time shall not be calculated.

Similarly the time taken to obtain a Judgement against which an appeal etc., are to be filed can be excluded.

In cases of an award the time taken to obtain the award copy shall be excluded.

But

The time taken by the court in making the decree ready for preferring an appeal, revision, review or an application for special leave cannot be excluded.

12. Copy Application - Exclusion Period : Time requisite for obtaining Copy starts from date of application, Where dismissal of such application is cured by its restoration starting of "Exclusion Period" also restored'.

Special Laws, Local Laws : Limitation Act applies unless it is specifically excluded².

Judgement Certified Copies : Time required for obtaining copies of Judgement will have to be excluded³.

వివరణ

ఏదేని దావాను గాని, అప్పీలుగాని దాఖలు చేయుటకు నిర్ణయింపబడిన కాలమును లెక్కించుటలో ఏరోజునుండి లెక్కించవలెనో ఆ దినమును వదిలి వేయవచ్చును.

ఇక

ఏదేని జడ్జిమెంటు డిక్రీనుండి అప్పీలు, రివిజను, రెవ్యూ లేదా స్పెషల్ లీవు టీసికాను విషయములో ఏ తేదీన జడ్జిమెంటు చెప్పబడినదో ఆ తేదీని వదిలివేయవచ్చును.

మరియు

1. Iqulbal Singh vs A.v. Subba Rao, AIR 73, AP 193.

2. AIR 69, SC 953.

3. AIR 89, SC 1477, 61 SC 832, AIR 68, SC 960.

ఏ డిక్రీపై అప్పీలు, రివిజన్, రెవ్యూ మొదలగునవి దాఖలు చేయవలసి యుండెనో ఆ డిక్రీ కాపీ తీసికొనుటలో జరిగిన టైమును వదలివేయవచ్చును. ఒక్క ఉదాహరణ: ఏదేని జడ్జిమెంటు డిక్రీపై అప్పీలు చేయవలెననని వాటి పబ్లిక్ నకళాన్ని నిమిత్తం జడ్జిమెంటు చెప్పిన 5 రోజుల తరువాత దరఖాస్తు చేస్తే జడ్జిమెంటు డిక్రీ కాపీలు ఇచ్చుటలో రెండునెలలు అలస్యం జరిగినా డిక్రీ కాపీలు ఈయబడిన తేదీనుండియే తిరిగి కాలదోషము గడువు లెక్కించ వలెను. ఈ ప్రకారము లెక్కించుట జడ్జిమెంటు కాపీలకు కూడా వర్తించును.

ఏదేని award పై అప్పీలు చేయదలచినచో సదరు award కాపీ తీసికొనుటలో గ్గచిన కాలమును వదలివేయవచ్చును.

కాని

ఏదేని డిక్రీని తయారుచేయుటలో కోర్టులో జరిగిన అలస్యమును లెక్కించరాదు.

గమనిక: ఈ కాలమును నిర్ణయించు వ్యవహారము నిత్యము కోర్టులన్నిటిలో అమలు జరుగుచున్నదే. చాలా మందికి అనుభవంలో ఉన్న విషయమే. అయినను అప్పీలు, రివిజను, రెవ్యూ మొదలగునవి దాఖలు చేయదలచుకొనినవారు తమ నకలు దరఖాస్తులను సకాలములో దాఖలుచేసి-నకళ్ళు ఈయబడిన తేదీని గుర్తించి వ్యవహారములు జరిగించుకొనుట చాలా శ్రేయస్కరం. శ్రద్ధ వహించండి. కాలదోషం వాతపడకండి.

13. EXCLUSION OF TIME IN CASES WHERE LEAVE TO SUE OR APPEAL AS A PAUPER IS APPLIED FOR

In computing the period of limitation prescribed for any suit or appeal in any case where an application for leave to sue or appeal as a pauper has been made and rejected, the time during which the applicant has been prosecuting in good faith his application for such or suit appeal, treat the suit or appeal as having the same force and effect as if the court fees had been paid in the first instance.

COMMENTARY

This section deals with exclusion of time taken in prosecuting the petition filed to sue and file a suit or an appeal as a pauper. Pauper may be understood as a person who is not having sufficient means to pay the requisite court fee. If the application filed for permission to file the suit or an appeal as a pauper is rejected and if that person pays the necessary court fees the time taken by such person in good faith in the time taken for the pauper proceedings shall be excluded.

వివరణ

పాపరుకు సంబంధించిన విషయము ఇందు చేర్చబడినది. ఎవరైన ఒక ఆసామి తన దావాను గాని అప్పీలును గాని “పాపరు”గా దాఖలు చేసి వున్న యెడల సదరు పిటీషను కోర్టుచే నిరాకరింపబడినచో (reject) అయినచో సదరు పాపరు వ్యవహారము తేల్చుకొనుటలో జరిగిన కాలవ్యయము తదుపరి కోర్టు ఫీజు చెల్లించిన యెడల exclude చేయబడును. పాపరు అనగా ఏదేని దావాకు లేదా అప్పీలుకు చెల్లించ వలసిన కోర్టు ఫీజు కూడా లేని ఆసామీ అని అర్థము. పాపరు వ్యవహారము తేల్చుకొనుటలో జరిగిన ఆలస్యము క్షమించబడునని తెలియదగును. ఇందలి ముఖ్యాంశము ఏమనగా సదరు వ్యక్తి Good faith తో వ్యవహరించి వుండవలెనని తెలుసుకోవాలి.

14. EXCLUSION OF TIME OF PROCEEDING BONA FIDE IN COURT WITHOUT JURISDICTION

1) In computing the period of limitation for any suit the time during which the plaintiff has been prosecuting with due diligence another civil proceeding, whether in a Court of first instance or of appeal or revision against the defendant shall be excluded, where the proceeding relates to the same matter in issue and is prosecuted in good-faith in a Court which from defect or jurisdiction or other cause of a like nature, is unable to entertain it.

2) In computing the period of limitation for any application the time during which the applicant has been prosecuting with due diligence another civil proceeding where in a court of first instance or of appeal or revision against the same party for the relief shall be excluded, where such proceeding is prosecuted in good-faith in a court which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.

3) Notwithstanding anything contained in Rule 2, order XXIII of the code of Civil Procedure, 1908, the provisions of sub-section(1) shall apply in relation to a fresh suit instituted on permission granted by the court under Rule 1 of that order, where such permission is granted on the ground that the first suit must fail by reason of defect in the jurisdiction of the Court or other cause of like nature.

Explanation : For the purpose of this section:

- a) In excluding the time during which a former civil proceeding was pending, the day on which that proceeding was instituted the day on which it ended shall both be counted,

- b) A plaintiff or an applicant resisting an appeal shall be deemed to be prosecuting a proceeding.
- c) Misjoinder of parties or of causes of action shall be deemed to be a cause of nature with defect of Jurisdiction.

COMMENTARY

This section relates to exclusion of time for which due diligence against the same defendant or respondent is one of the reasons. If a person files a suit or an appeal in a wrong court which was not having jurisdiction or otherwise and if subsequent by the plaintiff or appellant presents the suit or appeal in an appropriate court the time taken during which he has been prosecuting in a wrong court would be excluded.

If any person has been prosecuting the suit or appeal against the defendant or respondent in another matter of civil nature the time taken in prosecuting the said matter in a court which is not having jurisdiction or any other defect the time taken shall be excluded. When the matter is prosecuted in the appropriate court subsection (2) deals withdrawal or adjustment of any suit which has been dealt with under order 23 rule-1 of the code of civil procedure Act V of 1908. The order 23 Rule-1 reads as follows:

ORDER XXIII RULE -1

At any time after the institution of a suit the withdrawal of suit or plaintiff may as against all or any other defendants withdraw his suit or abandon part of his claim.

2) Where the court is satisfied-

- a) That a suit must fail by reason of some formal defect or
- b) That there are other sufficient grounds for allowing the plaintiff to institute a fresh suit for the subject matter of a suit or part of a claim, it may, on such terms as it thinks fit ³¹ grant the plaintiff permission to withdraw from such suit or abandon such part of a claim with liberty to institute a fresh suit in respect of the subject matter of such suit or such part of a claim.

3) Where the plaintiff withdraws from a suit or abandons part of a claim, without the permission referred to in sub-rule (2) he shall be liable for such costs as the court may award and shall be precluded from instituting any fresh suit in respect of such subject matter or such part of the claim.

- 4) Nothing in this rule shall be deemed to authorise the court to permit one of several plaintiff to withdraw without the consent of the others.

In computing the limitation the time taken either in withdrawing or abandoning a part of the claim against all or any of the defendants would be excluded when it is filed in a proper court. This shall be given effect to whatever might be in order 25 rules 1 and 2.

It is necessary to read order 23 rule 2 which is as follows : Order XXIII Rule-2

In any fresh suit instituted on permission granted under the last preceding rule, the plaintiff shall be bound by the law of limitation in the same manner as if the first suit had not been instituted.

COMMENTARY

It may be noted that if the suit presented is withdrawn with the permission of the court and when a fresh suit is instituted, the time taken in prosecuting the suit in a wrong court shall be excluded and it shall be treated for the purposes of computing the period of limitation as if it has been prosecuted on the day on which the plaint has been prosecuted in the wrong court.

When calculating the period of limitation the day on which the plaint has been presented in a wrong court and the period during which the plaint is pending and on which the plaint has been returned for presentation the proper court would be excluded.

Exclusion of Time includes period of infructuous proceedings, time occupied for taking indispensable preparatory steps for such proceedings¹.

Burden of Proof of Requisites of due diligence, good faith, caution lie on person claiming benefit under section 14².

Disposal on Merits : Failing of the prior matter on merits would not be covered by section 14³.

Wrong Remedy - Delay : If C.R.P. was filed instead of Appeal against an order where Appeal only Lies. Section 14 can be invoked for excluding time taken in prosecuting wrong Remedy⁴.

1. AIR 65, AP 388 = 65(2) An.W.R. 109.

2. AIR 71, SC 2313, AIR 58, SC 767, AIR 75 SC 824.

3. AIR 85, SC 39.

4. Ch. Anjaneyulu vs Alapati Hariprasad, 1996(4) ALT 794 = 96(4) ALD 1049.

వివరణ

ఈ సెక్షను ఎవరైనా అసామీ పొరపాటున wrong court లో దావా దాఖలుచేసియున్నయెడల సదరు కోర్టుకు Jurisdiction లేదని తెలుసుకొనినయెడల సదరు ప్లయింటు రిటర్నుచేసిన తేదీయున్న దాఖలు చేయబడియున్న తేదీయున్న వాటి మధ్య కాలమున్న కాలదోషము గడువునుండి తగ్గించబడును. ఇందులకు C.P. కోడ్ order XXIII rules 1 and 2 కూడా గ్రహించవలసి యున్నది. చ్చ సెక్షను వర్తించుటకు అనగా కాలదోషము గడువును పొడిగించు సందర్భమున సదరు వ్యక్తియొక్క good faith మరియు due diligence రెండునూ అగత్యమని తెలుసుకోవగును. ఇందలి ముఖ్యాంశములేమనగా ఏ వ్యక్తి అయినను పొరబాటుచే తన దావాను jurisdiction లేని కోర్టులో దాఖలు చేసినను మరి ఏ ఇతర defect చేతనైనను సదరు వ్యాజ్యము (suit) నష్టపోవలసి వచ్చినయెడల సదరు వ్యాజ్యమును సరియైన కోర్టులో దాఖలు చేసికొనుటలో జరిగిన ఆలస్యము క్షమింపబడునని తెలుసుకోవలెను.

CASE LAW

In a case filed at Madras the plaint presented by the plaintiff has been returned for presentation to the proper court. For purposes of limitation plaintiff invoked section 14 of the limitation Act and the court held that the time taken in prosecuting in a wrong court can be excluded¹.

Plaint returned : plaint returned to proper court after the expiry of period of limitation. section-14 is applicable².

The provisions of this section are applicable only to civil proceedings and are not available in criminal proceedings³.

Time spent in wrong forum : Dismissal of earlier application filed under section 84 of Bombay Tenancy Act as not maintainable subsequent application by Tenant under section 29 for restoration of Possession Held that tenant entitled to benefit under section 14 of Limitation Act⁴.

Exclusion of time spent in Revision on the Erroneous advice of Lawyer - Time spent in Revision was Excluded in Computing Limitation for Subsequently filed Suit⁵.

1. AIR 1980 A.P. Page 41, R.K Janakaiah Chetty vs O.K. Mohan.

2. A.P. small scale Industries Development Corporation Ltd. vs C. Koteswara Rao, 1977, ALT 63 (NRC) = 1977 A P H N 157.

3. Radhey Shyam vs M.R. Tribunal, A I R 1970 Bom, 138, E. Bagh Vs Dayanidhi, AIR 1971 Orissa, 133.

4. Waman Rao keshva Rao Deshmuch vs D.B. Deshmuch, AIR 99 S.C. 322.

5. Ghasi Ram vs Chait Ram Saini, AIR 98, SC 2476.

Exclusion of Time : Exclusion of time spent in prosecuting another Proceedings. It need not be civil Court - Dy Commissioner of Labour is a Court¹.

15. EXCLUSION OF TIME IN CERTAIN OTHER CASES

1) In Computing the period of limitation for any suit or application for the execution of a decree the institution or execution of which has been stayed by injunction or order the time of the continuance of the injunction or order, the day on which it was issued or made and the day on which it was issued or made and the day on which it was withdrawn shall be excluded.

2) In computing the period of limitation for any suit of which the previous consent or sanction of the Government or any other authority is required in accordance with the requirements of any law for the time being in force, the period of such notice or as the case may be, the time required for obtaining such consent or sanction shall be excluded.

Explanation : In excluding the time required for obtaining the consent or sanction of the Government or any other authority, the date on which the application was made for obtaining the consent or sanction and the date of receipt of the order of the Government or other authority shall both be counted.

3) In computing the period of limitation for any suit or application for execution of a decree by any receiver or interim receiver appointed in proceedings for the adjudication of a person as an insolvent, or by any liquidator or provisional liquidator appointed in proceedings for the winding up of a company, the period beginning with the date of institution of such proceeding and ending with the expiry of three months from the date of appointment of such receiver or liquidator as the case may be, shall be excluded.

4) In computing the period of limitation for a suit for possession by a purchaser at a sale in execution of a decree, the time during which a proceeding to set aside the sale has been prosecuted shall be excluded.

5) In computing the period of limitation for any suit the time during which the defendant has been absent from India and from the territories outside India under the administration of the Central Government all be excluded.

1. P. Sarathy vs S.B. AIR 2000, SC 2023.

COMMENTARY

This section is in general terms, Besides what has been said in the previous sections from 4 to 14 now the situations where exclusion of time can be had are shown:

Firstly where the proceedings have been stayed by an order or an injunction has been granted from proceeding can be excluded. The date on which the stay has been granted and the date on which it has been withdrawn are also excluded, similar is the case in which an injunction has been granted.

Secondly where permission is required to institute a suit is required either from Government or any authority to give a notice shall also be excluded, It is seen that to institute a suit against the state of central Government notice as required under section 80 of the civil procedure code Act V of 1908 is a necessary requirement. If it is not given the suit would be dismissed similar provisions may be found in other Enactments see AIR 1985 M.P. page 150. Period of Limitation would be extended by two months in such cases. Similarly the time spent in obtaining permission from any authority where it is a sinequa non shall also be excluded.

A new sub section has been introduced in cases of where receiver or interim receiver and liquidator and an interim liquidator have been appointed to the proceedings.

Where in a suit or inexecution proceedings a receiver or an interim receiver has been appointed and in cases of company matters a liquidator an interim liquidator have been appointed the period of Limitation for such proceedings has been extended by three months after such appointment. The same period of three months are applicable in liquidation proceedings of a company.

The other situation contemplated is where the auction purchaser of immovable property in a court sale who has to file a suit for recovery of possession gets exclusion of time spent in proceedings to set aside the sale.

In cases where a suit has to be filed against a person who is outside India and the time spent by him of the territories of india would be excluded.

Limitation for Execution - Pendency of Appeal : Where, there was no order of injunction restraining D.Hr from filing execution application, D.Hr is not entitled to exclude time spent in Prosecuting Appeal¹.

Stay - Injunction orders : Where the Filing Suit or Execution of Decree has been stayed by injunction order, Period during which injunction order is in force must be excluded in computing period of Limitation for such Suit².

వివరణ

ఇందు నూతనముగా ఈ సెక్షను ప్రవేశపెట్టబడినది. ఏదేని దావాగాని అప్పీలుగాని దాఖలు చేయుటకు competent court stay order ఇచ్చినను లేదా temporacy injunction ఇచ్చినను సదరు stay order గాని Injunction order గాని తొలగింపబడేవరకుగల timeను exclude చేయబడును. అనగా సదరు stay order గాని injunction order గాని అమలులో ఉన్న గడువును కాలదోషము సమయమునుండి పొడిగించ బడును.

మరియు

ఏదేని వ్యాజ్యము చేయుటకు ప్రతివాదికి ముందుగా నోటీసు ఈయవలసిన చట్టపరమైన ఆవశ్యకత ఉంటే ఆ నోటీసు గడువును కాలదోషము గడువుకు కలిపే లెక్కించబడును. సివిల్ ప్రొసీజర్ కోడ్లోని సెక్షను 80 ప్రకారం రాష్ట్ర గవర్నమెంటు, కేంద్ర ప్రభుత్వం, రైల్వే పైన దావాలు చేయుటకు రెండునెలలు గడువు ఇస్తూ నోటీసు ఇవ్వాలి. సదరు నోటీసు గడువును కాలనిర్ణయముకు కలిపి లెక్కించవచ్చును. అంతే కాక ఏదేని గవర్నమెంటువద్దనుండిగాని అట్టి అధారిటీనుండి గాని Permission పొందవలసిన ఆవసరం ఉంటే అట్టి Permission పొందుటలో జరిగిన సమయం కూడా కాలనిర్ణయానికి కలిపే కాలదోషాన్ని లెక్కించాలి.

ఏదేని దావా చేయుటకు గాని, డిక్రీ అమలు చేయుటకుగాని, లేదా కంపెనీ వ్యవహారాలు చూచుటకు గాని రిసీవర్ను గాని Interim రిసీవర్ను గాని appoint చేసినను కంపెనీ వ్యవహారాలకు liquidatorని appoint చేసినను అట్టి appointment తేదీ లగాయతు 3 నెలలు గడువు కాల నిర్ణయానికి కలిపే కాలదోషాన్ని లెక్కించాలి.

1. N.V.R. Rao vs Me Rao, AIR 71 AP 246.

2. AIR 92, SC 1795.

రిసీవర్లను appoint చేయుట, వారి duties మొదలగునవి Civil procedure code Act V of 1908 order 40 లో వ్రాయబడినవి.

అటులనే కంపెనీ వ్యవహారాల్లో Liquidator ను appoint చేయుట, వారు నిర్వహించవలసిన కార్యకలాపాలు Companies Act (Act I of 1956) సెక్షను 448లో వివరించబడినది. ఇండియా దాటి విదేశాలలో ఉన్న ప్రతి వాదిపై దావా వగైరాలు చేయవలసి ఉండే యెడల నదరు ప్రతివాది విదేశాలనుండి ఇండియా చేరుకునేవరకు గడిపిన సమయాన్ని కలిపే కాలనిర్ణయం చెయ్యాలి.

CASE LAW

Execution of a decree embraces all appropriate means by which the decree is enforced. It includes all processes and proceeding in aid or execution¹.

Supreme court approved the view taken by Madras High Court.

16. EFFECT OF DEATH ON OR BEFORE THE ACCRUAL OF THE RIGHT TO SUE

1) Where a person who would, if he were living, have a right to institute a suit or make an application, dies before the right accrues only on the death a person, the period of limitation shall be computed from the time when there is a legal representative of the deceased capable of instituting such suit or making such application.

2) Where a person against whom if he were living, a right to institute a suit or make an application would have accrued, dies before the right accrued, or where right to institute a suit or make an application period of limitation shall be computed from the time when there is a legal representative of the deceased against whom the plaintiff may institute such suit or make such application.

3) Nothing in Sub-section (1) or Sub-section (2) applies to suits to enforce rights of pre-emption or to suits for the possession of immovable property or of a hereditary office.

COMMENTARY

This Section relates to the time of commencement of Limitation in case of persons who dies before acerual of right to Sue or file an application. It deals with the case of both Plaintiff, and defendant and the exceptions to the Section.

1. AIR 1984 SC 1383, Muthukarni Vs. Andappa, A I R 1955 Mad. 96, Muthiv Chettiar Vs. Shanmugam, AIR 1969 SC Page 552, = 1969 (2) An.W.R SC (28),

In Case of a person dies before the right accrues to him to file a suit or make an application, the right to file such Suit or file an application and the Limitation to file such suit or file an application begins from the time the Legal representative of the deceased person is capable of filing such suit or make such application. To illustrate if Raju dies before his right to sue or to file an application has arisen and his legal Representative Ravi was a minor by the time of the death of Raju who was only 12 years old, the right of the Legal representative Ravi is virtually kept in abeyance until he attains majority and Limitation begins to run from the date on which the Legal Representative attains majority. Similar is the case if the Legal representatives is suffering from mental disorder, or an idiot.

Sub Section (2) deals with an apposite case where a person dies against whom a suit would have been filed or an application is made had he been alive, the time starts running to reckon Limitation from the time there is a Legal Representative of the deceased. Here the determination of the Legal representative is the primary question. From the date the Legal Representative of the deceased person against whom a suit would have been filed or an application would have been made is known, time begins to run. In this case it is enough if the Legal Representative is known.

The third Sub-Section is an exception to the above two Sub-Sections. For filing suits or making applications to recover immovable property, to enforce right of pre-emption and to recover a hereditary office.

Filing of Suits cannot be kept in abeyance in the above three types of cases.

వివరణ

దావా చేయు హక్కు, సిద్ధించేలోపున మరణం సంభవిస్తే?

ఎవరైనా ఆసామీ దావా చేయుటకుగాని అప్లికేషను దాఖలు చేయుటకుగాని హక్కు సిద్ధించే లోగా మరణించితే - మరణించిన వ్యక్తి యొక్క వారసుడు సదరు దావా చేయుటకు లేదా అప్లికేషను దాఖలు చేయుటకు అవసరమగు Capacity పొందేవరకు - కాలదోషం పట్టదు - ఆ కాలనిర్ణయం లెక్కింపబడును. మరణించిన వ్యక్తి యొక్క వారసుడు ఆ ఆసామీ మరణ సమయానికి మైనరుగా ఉంటే అతడికి మెజారిటీ వచ్చే వరకు కాలదోషం పట్టదు. కాల నిర్ణయం మెజారిటీ వచ్చిన తేదీ నుండే లెక్కింపబడునని తెలుసుకోవాలి. ఇటులనే మతిభ్రమణం వగైరా అనవకాశాలు అని గుర్తించాలి.

రెండవ సబ్ సెక్షను ప్రకారం ఎవరైనా ఒక ఆసామీ మరియొకరిపై దావా చేయుటకు గాని అప్లికేషను దాఖలు చేయుటకుగాని ముందుగా మరణిస్తే మరణించిన ఆసామీ యొక్క వారసుడెవరో తెలుసుకునే వరకు మాత్రమే కాలదోషం పట్టకుండా ఉండగలదు.

అయితే ఈపైన చెప్పబడిన రెండు అవాంతరాలు (3) వ సబ్ సెక్షనులో చెప్పబడిన వాటికి వర్తించవు. అవేవనగా!

స్థిరాస్తిని స్వాధీనం పొందుటకు చేయు దావాలు, Pre-emption దావాలు, వారసత్వ రీత్యా దాఖలు పడవలసిన Officesకు సంబంధించిన దావాల విషయంలో పైన వ్రాయబడిన (1), (2) సబ్ సెక్షనులలో ఈయబడిన లెసులు బాటు ఇవ్వబడదు.

Case Law

A cause of action does not accrue unless there is in existence a person competent to sue and the sued¹.

17. EFFECT OF FRAUD OR MISTAKE

(1) Where, in the case of any suit or application for which a period of limitation is prescribed by this Act --

- (a) the suit or application is based upon the fraud of the defendant or respondent or his agent; or
- (b) the knowledge of the right or title on which a suit or application is founded is concealed by the fraud of any such person as aforesaid or
- (c) the suit or application is for relief from the consequences of a mistake; or
- (d) there any document necessary to establish the right of the plaintiff or applicant has been fraudulently concealed from him;

The period of limitation shall not begin to run until the plaintiff or applicant has discovered the fraud or the mistake or could, with reasonable diligence have discovered it; or in the case of a concealed document, until the plaintiff or the applicant first had the means of producing the concealed document or compelling its production.

Provided that nothing in this Section shall enable any suit to be instituted or application to be made to recover or enforce any charge against or set aside any transaction affecting, any property which.

1. Kameswara Rao vs Somanna, AIR 1955, AP Page 212.

- (i) In the case of fraud, has been purchased for valuable consideration by a person who was not a party to the fraud and did not at the time of the purchase, know or have reason to believe, that any fraud had been committed; or
- (ii) in case of a mistake, has been purchased for valuable consideration subsequently to the transaction in which the mistake was made, by a person who did not know, or have reason to believe, that the mistake had been made; or
- (iii) In the case of concealed document, has been purchased for valuable consideration by a person who was not a party to the concealment and did not at the time of purchase know, or have reason to believe, that the document had been concealed.

2. Where a Judgement debtor has, by fraud, or force, prevented the execution of a decree or order within the period of limitation, the Court may, on the application of the judgement - Creditor made after the expiry of the said period, extend the period of execution of the decree or order;

Provided that such application is made within one year from the date of the discovery of the fraud or the cessation of force, as the case may be.

COMMENTARY

This Section deals with fraud or mistake committed either by the defendant respondent or his agent and also deals with concealment of a document which is the basis for filing the Suit or making the application.

Where period of limitation is prescribed by this Act for instituting any Suit or making an application and such Suit could not be instituted or application could not be filed due to the fraud committed by the defendant the prescribed period of Limitation would be extended in both cases of fraud or mistake. The time begins to run from the date when the fraud is detected and the mistake is known. It is stated in other terms that

Period of limitation shall not begin to run until the disability is over come whether it is fraud or mistake.

Where any document is concealed from the plaintiff and which is quite necessary to present it in the Court to establish his Title, time

would not run against him until the document is found or compelled to be filed into Court. Three types of disabilities are postulated in this Section to get the relief of extension of period of Limitation. They are FRAUD - Mistake and concealment of a document.

Fraud and mistake are defined in the Indian Contract Act. Section 17 Clause (1) of the Indian Contract Act defines "Fraud" as follows : "FRAUD" means and includes suggestions as to a fact, of that which is not true by one who does not believe it to be true made with intent to deceive another party thereto or his agent, or to induce him to enter into a contract".

It is useful to note the definition given by story which is as follows : Fraud in the contemplation of a civil Court of Justice may be said to include property all acts, omission, and concealment which involve a breach of legal duty, trust, confidence just by reposed and or injurious to another or by which an undue or unconscientious advantage is taken of another".

mistake is of two kinds mistake of Law and mistake of Fact. Sections 20, 21 and 22 of the Indian Contract Act deal with the "mistake" and the effect of it.

Sec 20 : Where both parties to an agreement are under a mistake as to a matter of fact essential to the agreement, the agreement is void".

Explanation : An erroneous opinion as to the value of the thing which forms the subject matter of the agreement is not to be deemed a mistake as to a matter of fact.

Sec 21 : A Contract is not voidable because it was caused by a mistake as to any Law in force in India, but a mistake as to a Law not in force in India has the same effect as a mistake of fact.

Illustration : A and B make a Contract grounded on the erroneous belief that a particular debt is barred by the India Law of Limitation, the Contract is not voidable.

Sec 22 : A Contract is not voidable merely because it was caused by one of the parties to it being under a mistake as to a matter of fact.

The benefit of this Section is available where the fraud is committed by the defendant, Respondent or his agent; or the knowledge of the Right or title to such suit or application is concealed by fraud of such persons.

The relief of extension of period of Limitation is also available in case the relief prayed for is based on the mistake and as consequence of such mistake action could not be taken at an earlier date.

Concealment of a document is patent. The time begins to run from the date when the fraud is discovered mistake is detected and the document is found or get it filed by compulsion.

Who can take advantage of this Section :

A person who is not a party to fraud and who has purchased property for valuable consideration and who do not know about the fraud at the time of purchase.

similar is the case of a person who is under the delusion of a mistake.

The Second Sub clause of the Section speaks about extension of period of Limitation in execution matters.

It the Judgement - Creditor is prevented by the Judgement debtor by committing fraud or using force, even after expiry of period of limitation if the Judgement Creditor makes an application after the fraud is detected or force is ceased, the period of Limitation would be extended. But the application shall be made within one year from the date of detection of fraud or cessation of force.

Refund of Money : For refund of Money section 17(1) applies. Period will begin from the date of knowledge of particular law being declared void¹.

వివరణ

మోసమునకు గురియైన వ్యవహారం, పొరపాటు వలన నష్టపోయిన వ్యవధానం విషయాలను గురించియు, మరియు ముఖ్యమైన పత్రమును దాచివేయుట వలన కలిగే కీడు నెదుర్కొను విషయములో కాలదోషం గడువును పొడిగించుట ఇందు తెలుపబడినది.

ఏదేనే దావా చేయుటకుగాని, దరఖాస్తు పెట్టుటకుగాని ఈ చట్టం ద్వారా కాలపరిమితి నిర్ణయింపబడియుండి ప్రతివాదిగాని, రెస్పాండెంటుగాని జరిగించిన మోసం వలన సదరు వాది లేదా దరఖాస్తుదారు దాఖలు చేయవలసిన గడువు పొడిగింపబడును. ఎప్పటినుండి - ఎప్పటి వరకు? చేసిన మోసం తెలుసుకొనినంత వరకు కాలనిర్ణయం లెక్కింపబడదు. మోసం తెలియబడిన తేదీ నుండి మాత్రమే కాలనిర్ణయం లెక్కింపబడును.

పొరపాటు జరిగిన వ్యవహారములలో (Mistake) కూడా పై విధముగనే కాలభ్రమణము (Running of Time) ఆపబడును.

ఏదేని ఒక లిఖిత పత్రమును ఆధారముగా చేసికొని దావా చేయుటకుగాని, దరఖాస్తు పెట్టుటగాని జరిగించవలసి యుండగా సదరు పత్రము దాచివేయబడినట్లయితే సదరు పత్రం బయట పడేవరకుగాని, బలవంతముగ బహిర్గతం చేయించేవరకు గాని కాల పరిభ్రమణం (Running of Time) ఆపబడును. సదరు పత్రం బయట పడిన తేదీ నుండే కాల నిర్ణయం చేయబడును.

అయితే ఈ సెక్షను ప్రకారం లబ్ధిపొందు ఆస్తిని లెవరనగా ఏ వ్యక్తి అయితే జరిగిన మోసముకు తాను కూడా పార్టీ లేకుండా యుండి సదరాస్తి కొనుగోలు విషయంలో ధార్మికమైన మూల్యం చెల్లించి కొనుగోలు చేసి యుండునో అట్టి ఆస్తిని అకే ఇది వర్తించును. అనగా కాల పరిమితి పొడిగింపు అని తెలుసుకోవాలి.

పొరబాటు (Mistake) విషయంలో కూడా పైపద్ధతే అనుసరించదగును. మోసం (Fraud) అంటే ఏమిటో Indian Contract Act Section 17 (1) వివరించినది. ఆ నిర్వచనం ఇంగ్లీషు కామెంటరీలో ఈయబడినది. అది చదువవలెను. అటులనే పొరబాట్లు (Mistakes) కూడా రెండు రకములుగా ఉంటాయని Mistake of fact, Mistake of Law అని Indian Contract Act Sections 20, 21 and 22 లలో వివరించబడినవి. వాటిని కూడా ఇంగ్లీషు కామెంటరీలో చేర్చినాము. చదవకోరెదము.

ఈ సెక్షనులోని (2) వ సబ్ క్లాజు Judgement - debtor వలన తాను తన డిక్రీ అమలు జరుపుకొనుటలో మోసగింపబడినను, నిరోధింపబడినను (by force) Judgement Creditor అందు కాలనిమిత్తం దరఖాస్తు చేస్తే కాలనిర్ణయం గడువు పొడిగింపబడును. అయితే మోసం తెలియబడిన లేదా నిరోధం తొలగింపబడిన ఒక ఏడాది గడువులో దాఖలు చెయ్యాలి.

CASE LAW

సుబ్బయ్య VS లక్ష్మణస్వామి కేసులో Money Decree Ex parte Decree పొంది దానిని అమలు పరుస్తూ - J.Dr నివసించనిచోటుకు Sale - Notice పంపి - ఆ నోటీసును ఆస్తిని వేలం వేయించడం జరిగింది. ఇది తెలిసికొని J.Dr. నిర్ణీత గడువు దాటిన తరువాత - తెలిసిన 30 రోజులలోగా Ex Parte decree రద్దు చేయవలెనని దరఖాస్తు చేయగా - దరఖాస్తుకు కాలదోషం పట్టలేదని A.P. హైకోర్టు తీర్పు చెప్పినది¹.

However if a person who is not a party to the Fraud or Mistake or Concealment Purchaser the property for consideration for such Sales this section has no application.

వ్యాఖ్య : దావా వేయుటకు లిమిటేషన్ చట్టంలో గడువు నిర్ధారించి ఉన్నా ప్రతివాది మోసం, దగా, పొరపాటు చేసి లేక హక్కుని నిర్ధారించే దస్తావేజును దాచివేస్తే, వాది ఆ మోసం, దగా, పొరపాటు తెలిసిన తర్వాత నుండి, దస్తావేజు కాపీ పొందే అవకాశం కలిగినప్పటి నుండి దావా వేయుటకు లిమిటేషన్ ప్రారంభం కాదు.

అయితే మోసంను పార్టీకానివారు ప్రతిఫలంకు ఆస్తి కొన్న పొరపాటున ఆస్తికొన్నా, డాక్యుమెంట్ దాచివేత తెలియక కొన్నా వారిపై ఈ సెక్షన్ ప్రకారం దావా వేసే వీలు లేదు.

E.P. (అమలు) వ్యవహారంలో ఋణగ్రస్తుడు మోసం, బలప్రయోగం చేసి డిక్రీ హోల్డర్ డిక్రీ అమలుకు నిరోధిస్తే డిక్రీ హోల్డర్ కి మోసం తెలిసిన, బల ప్రయోగం పోయిన ఏదాదిలోగా పిటిషన్ వేస్తే - కోర్టు డిక్రీ అమలు గడువును పొడిగిస్తుంది.

This section doesn't apply to appeals¹.

A complaint or a criminal appeal does not fall within the purview of this Section 20 Bom 543².

MISTAKE³.

Limitation starts from the date when mistakes is noticed⁴.

Tax paid under a Mistake the government to whom the payment is made by Mistake must in Law repay it⁵.

1. 1962 (2) An WR Page 18, Mahbole vs Alva.

2. Queen Empress vs Nageshappa.

3. Mahabir Kishore vs State of M.P., AIR 1990, SC 313.

4. Sona Tea W., Ltd. vs Supdt of Taxes Navgans, AIR 1990, SC 772.

5. AIR 1964, SC Page 1006, 1966 (1), An WR (SC) Page 42, AIR 1986, AP Page 361.

18. EFFECT OF ACKNOWLEDGEMENT IN WRITING

(1) Where, before the expiration of the prescribed period for a suit or application in respect of any property or right, an acknowledgement of liability in respect of such property or right has been made in writing signed by the party against whom such property or right is claimed, or by any person through whom he derives his title or liability, a fresh period of limitation shall be computed from the time when the acknowledgement was so signed.

(2) Where the writing containing the acknowledgment is undated, oral evidence may be given of the time when it was signed, but subject to the provisions of the Indian Evidence Act, 1872 (I of 1872), oral evidence of its contents shall not be received.

Explanation : For the purposes of this Section :-

- (a) an acknowledgment may be sufficient though it omits to specify the exact nature of the property or right, or avers that the time for payment, delivery, performance or enjoyment has not yet come or is accompanied by a refusal to pay, delivery perform or permit to enjoy, or is coupled with a claim to set off, or is addressed to a person other than a person entitled to the property or right.
- (b) the word "Signed" means signed either personally or by an agent duly authorised in this behalf and
- (c) an application for the execution of a decree or order shall not be deemed to be an application in respect of any property or right.

COMMENTARY

Fresh period of Limitation Commences from the date of Acknowledgement of Liability right etc is made. The Acknowledgement should be made by person who is liable or by person who derives his title to liability Acknowledgement renews the liability¹.

The Liability must be alive on the date of Acknowledgement. Acknowledgement must be made before the expiration of prescribed period. Accounts stated is an acknowledgement of debt. (1968, Cal 292) endorsement on Agreement why he is unable to fulfil, such explanation amounts to acknowledgement of Liability².

1. SF Marda vs Durga Prasad, AIR 1961, SC 1236.

2. AIR 1967, All 541, Madhma Dupt vs Teja Singh

Debtor when sign or pay slips towards payment of loan to Bank is acknowledgement of Debt¹.

Debts due to Creditors not mentioned by name included in Balance sheet extends Limitation².

Acknowledgement made by Mortgagor after selling away the property whole or to part to another will not save Limitation³.

Acknowledgement of Liability coupled with refusal saves Limitation⁴.

Making a claim of set of amounts to Acknowledgement of Debt⁵.

Acknowledgement by one among the Joint Contractors on his behalf and as duly authorised Agent of others Saves Limitation against all⁶.

Acknowledgement by one among the partners Binds all, Saves Limitation⁷.

Filing Execution Petition in execution of Decree is not an application in respect of right.

The acknowledgement shall be made before expiration of the time.

An acknowledgement when made by a mere stranger has no efficacy⁸.

No debtor can be held to be bound by a mere acknowledgement by a stranger⁹.

Acknowledgement of Debt only postpones Later date to Count period of Limitation¹⁰.

Acknowledgement of Debt need not be Stamped¹¹.

Acknowledgement of liability under this Section simply means an admission of the truth of one's own Liability¹².

1. Ratanlal **vs** C and J Bank, AIR 1965, AP 349.

2. Raja of Vigianagaram **vs** Virianagaram Mining Co Ltd., AIR 1952, Mad 136.

3. Raghoba **vs** Shaba, AIR 1960, Mysore 187, Naranappa Naicker, AIR 1950, Madras 553.

4. Gajananda Raja Gorda **vs** Union of India, AIR 1955, Pavma 182, Sivakasi ME Co. **vs** Raman Lal "M-Bras", AIR 1963, Madras 403.

5. Aiyappan **vs** Rappel, AIR 1952, Travancore 518.

6. Rangaswami **vs** Soma Sundaram, AIR 1928, Madras 1783.

7. Meenakshi Achi **vs** P.S.M. Subramanian, AIR 1957, Madras 8, Krishnayya **vs** Venkatappayya, AIR 1975, Mad Page 134, **was over Ruled in** AIR 1964, Mad 169 FB.

8. AIR 1951, Nag 240.

9. AIR 1964, Mad 169 F.B., Nalla Thambi **vs** Avant.

10. Kamala Devi **vs** Mani Lal, AIR 1977, SC 1187.

11. AIR 1972, A.P. 282, CPC Haskimal & Co **vs** Venkataswamy

12. AIR 1964, SC 227.

Admission may be express or implied it should be conscious acknowledgement of Liability Acknowledgement should be in writing¹.

It should be signed².

Acknowledgment may be undated, may not specify nature of property or right. It may contain refusal to pay or may claim set off or it may be addressed to a third party who is not entitled to the Debt or Property.

18. Railway Claims - cases - Limitation Act application stands excluded by Section 17 of Railway Claims Tribunal Act 1987³.

Suit for Price for work done is 3 years from date of Completion of work⁴.

Acknowledgement of Debt : After Period Prescribed for Limitation, any acknowledgement made will not revive period of Limitation⁵.

Party or his Authorised Agent should sign the Acknowledgement.

Acknowledgement of debt renews debt and does not create new right of action. Acknowledgement of liability must be made before the Expiry of the Period of Limitation on Prescribed for the suit or Application.

Jonal relationship can be inferred⁷.

Statement must relate to the subsisting Liability to the Subsisting Liability or right claimed⁸.

Intention to admit Jural relationship need not be in Express terms, it can be inferred Express terms, it can be inferred by implication.

Acknowledgement of Liability under this section simply means an admission of the truth of one's own liability⁹.

Acknowledgement under this section must be in writing¹⁰.

From Surrounding Circumstances¹¹.

1. AIR 1967, SC 1058.

2. AIR 1961 SC 1236.

3. Brooke Bond (P) Ltd vs Union of Indian, 2001 (5) ALT 448 = 2001 (4) ALD 604.

4. 1970, S.C. 1433.

5. AIR 99 SC 1047, Saupurna Singh vs Niranjan tour.

6. AIR 1968, All 316.

7. AIR 1961, SC 1236, 71 SC 1482.

8. AIR 67, SC 935.

9. AIR 64, SC 227.

10. AIR 67, SC 1058.

11. AIR 71, SC 1482.

Acknowledgement must be in writing¹.

Acknowledgement must be signed by the person making or by his Agent².

Acknowledgement of Liability under this section must be by the person against whom the Liability is sought to be enforced. It should be liberally construed³.

Co heirs - Acknowledgement : Heirs of Muslim dying intestate on whom liability to discharge falls, if one heir Acknowledges debt, the acknowledgement cannot be extended to other Co-heirs⁴.

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బాకీకి చెల్లు వ్రాతపూర్వకంగా ఉండాలి. బాకీదారు లేక వారి ఏజెంట్ సంతకం చెయ్యాలి. చెల్లు తేదీ వ్రాయకపోతే ఆ తేదీ గురించి తర్వాత సాక్ష్యం పెట్టవచ్చు. చెల్లులో ఆస్తి, హక్కు (బాకీ) గురించి వ్రాయక పోయినా, చెల్లింపు తేదీ రాలేదని వ్రాసినా, చెల్లించనని వ్రాసినా, తనకు రావలసిన సాముకై Set off (క్లెయిమ్) చేసినా, ఆస్తి , బాధ్యత నెరవేర్చనని, ఆస్తి అనుభవంకు అనుమతించనని వ్రాసినా అది Acknowledgement “చెల్లు” అవుతుంది. అది కాంట్రాక్టుకు పార్టీకాని వ్యక్తికి వ్రాసినా “చెల్లు” అవుతుంది.

What is an acknowledgement has been tersely answered by Supreme Court in the following Case⁵.

Acknowledgement merely renews debt. It does not create a new right of action. It need not be accompanied by a promise to pay either expressly or by implication. It must relate to present subsisting liability.

An assurance by a Banker when amounts to an acknowledgement⁶.

Where the debt is sought to be recovered from principal debtor and the surety acknowledgement by the surety does not save limitation as against principal debtor⁷.

Allahabad High Court held that if one of the Co-Mortgagors acknowledges the debt or make the payment would Save Limitation as against that person only and would be of no avail as against others⁸.

Bombay and Madras High Courts have also expressed the same view.

1. AIR 67, SC 1058.

2. AIR 67, SC 1058.

3. AIR 61, SC 1236.

4. AIR 91, SC 720.

5. S.F. Mazda vs Durga Prasad, AIR 1961, SC Page 1236.

6. J & K Bank vs Chandra Prakash, AIR 1974, J & K Page 35 FB.

7. AIR 1918, Cal 707.

8. AIR 1936, All 820.

19. EFFECT OF PAYMENT ON ACCOUNT OF DEBT OR OF INTEREST ON LEGACY

Where payment on account of a debt or of interest on a legacy is made the expiration of the prescribed period by the person liable to pay the debt or legacy or by his agent duly authorised in this behalf, a fresh period of limitation shall be computed from the time when the payment was made.

Provided that, save in the case of payment of interest made before the 1st day of January, 1928, an acknowledgment of the payment appears in the handwriting of, or in a writing signed by, the person making the payment.

EXPLANATION : For the purposes of this section :

- (a) Where mortgaged land is in the possession of the mortgagee, the receipt of the rent or produce of such land shall be deemed to be a payment.
- (b) "DEBT" does not include money payable under decree or order of a Court.

COMMENTARY

This Section deals with the cases where fresh period of Limitation Starts in case of payment is made on account of debt or legacy. Section 18 dealt with only acknowledgement of a debt. To illustrate if payment is made under promissory note debt or a Mortgage debt before it is barred by Limitation a fresh period of Limitation arises. It is common knowledge that payment made towards interest or principal under a promissory note or mortgage bond a fresh period of Limitation arises.

Endorsement or payment on a Mortgage deed need not be registered¹.

Before the Limitation date if payment is made towards debt or legacy by Debtor (Person liable to pay) his Agent it Saves Limitation.

In Cases where property Mortgaged is Houses of Lands receipt of rent or produce shall be treated as payment. When Cheque is paid signed by debtor, the day on which cheque is passed on creditor is the date from which Limitation Commences, Whether the Cheque is honoured or dishonoured it is immaterial².

1. AIR 1918, Mad 645.

2. AIR 1954, SC 429

It is not necessary to give a written authority to constitute a duly authorised agent by conduct it can be inferred. The person making the payment is a duly authorised agent or not is a question of fact But it should be shown that there is implied authority no formal authorisation is required¹.

"Acknowledgement of debt should be in writing, signed by person making it².

Acknowledgement need not be Registered³.

Acknowledgement of debt need not be in Express terms and it can be inferred from the admissions and Surrounding Circumstances⁴.

Katha Account - Limitation : Mere entry in Account Book of Creditor as to Payment of amount, not in handwriting of debtor, nor signed by debtor, It will not Save limitation⁵.

Execution Petition - Limitation : Limitation for filing EP starts from the date of Appellate Court decree Trial Court decree merges with Appellate Court Decree⁶.

Acknowledgement : It need not the specific, if facts which Constitute Liability are admitted acknowledgement may be inferred⁷.

Payment by Wife on behalf of husband is no Acknowledgment : Suit filed beyond 3 years from date of Pronote barred by time⁸.

In open, Current and Mutual accounts from year in which last payment was made, Limitation starts⁹.

Debt Acknowledgement can be inferred by far fetched Process of reasoning¹⁰.

Unqualified acknowledgement Contained in the statement of Accounts is sufficient to furnish cause of action to Plaintiff to Maintain Suit¹¹.

1. AIR 1929, PC 297.

2. K.S. Narayana vs SBG, 88 (2) ALT 843.

3. AIR 1977, SC 1187.

4. AIR 1971, SC 182.

5. Panchipati Ramanaidu vs Sri Srinivas Cloth Emporium by its Parther, 93(3) ALT 950 = 96(2) LS 314 = 96(4) ALD 144.

6. Sulshdev Parshad vs V.S.B. Kishanlal, 1996(1) ALT 71 - 96(1) ALD 561.

7. State of Kerala vs T.N. Chackes, AIR 2000, SC 3597.

8. Reddi vs Varamaiah vs P. Nagi Reddi, 99(1) ALT 603.

9. AIR 1967, SC 1058.

10. AIR 1961, S.C. 1236.

11. AIR 1953, S.C. 225.

Issuing of Cheque partner - Limitation : A partnership firm partner issued cheque the period of Limitation extends from date of cheque¹.

Cheque Payment : Limitation cheque issued for the repayment of Debt - The date on which Cheque was encashed, is the date that starts the period of Limitation but not the date which cheque bear's².

Debt Acknowledgement : To Constitute Debt Acknowledgement Debtor, creditor relationship, Subsisting liability should be acknowledged, it is not necessary to mention specific amount³.

Payment by Cheque Saves Limitation if paid before expiry of Period of Limitation⁴.

Party Payment by one Co-heir Saves Limitation against other Co-heirs⁵.

Dishonoured Cheque - Will not serve the Purpose of acknowledgement for bar of Limitation⁶.

Averments in Counter Affidavit operate as acknowledgement⁷.

Date on which Payment was made is the date for reckoning Limitation⁸.

A Mortgagor who lost all interest in mortgaged property and who is not personally liable cannot keep alive the debt by making payment⁹.

Payment - Signature : Except payment towards interest every payment should be in the handwriting of person making payment¹⁰.

Acknowledgement - Payment : Payment of Amount Acknowledgement need not be Simultaneous¹¹.

1. New Age Rice Mill vs Mahaveer Rice, Dal 8 Oil Mills, AIR 2001 Rajasthan 248.

2. Syndicate Bank, Hyd vs A. Vijaya Rama Rao, 2002(1) ALD 405.

3. N. Satyanarayana vs P. Chalamayya Choultry, 1969 (2) APLJ 279.

4. Sri Mahalakshmi Rawand Boiled Rice Mill, vs Ch.V. Pratap, 1972, APHN 164.

5. Md. Abdulquadeer vs Azamakulla Khan, 1973 (2) APLJ 306.

6. T.V.K. Sharma Co. vs M.V. Subbaiah, 1970 (2) APLJ 49.

7. Raja Srinivasa APPa Rao Bahadul vs N. Vijaya Saradhi, 1969 (2) ALT 13 (NRC), Shazdi Begum vs Giridhar Lal, AIR 1976, AP 273.

8. AIR 1967, SC 1118

9. AIR 1964, SC 1295.

10. AIR 67, SC 1058

11. AIR 51, SC 477.

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గడువు తేదీలోగా బాకీ తీర్మానంపై సామ్ము చెల్లింపు చేయవలసిన వ్యక్తి లేక అతని ఏజెంట్ సామ్ము చెల్లించితే ఆ తేదీ నుండి లిమిటేషన్ ప్రారంభం అవుతుంది.

తనఖా యిచ్చిన ఇళ్ళు, పొలంపై అద్దె, పంట తీసుకోవడం పేమెంట్ క్రింద లెఖ్ఖలోకి వస్తుంది. “బాకీ” అంటే దీక్ష క్రింద చెల్లించవలసినది ఈ సెక్షన్ పరిధిలోకి రాదు.

ప్రాంసరీ నోట్లపైన, తనఖా దస్తావేజుల వెనుక బాకీ సామ్ములో నుండి అసలులో నుండిగాని, వడ్డీలో నుండిగాని ఏకొంత మొత్తం చెల్లించి వాటిపై వ్రాసి బాకీదారుడు లేదా వాని ఏజెంటు సంతకం చేస్తే ఆ బిల్లు తేదీ లగాయతు Fresh Period of Limitation begins అవుతుంది.

20. EFFECT OF ACKNOWLEDGMENT OR PAYMENT BY ANOTHER PERSON;--

(1) The expression "agent duly authorised in this behalf" in Sections 18 and 19 shall, in the case of a person under disability, include his lawful guardian. Committee or Manager or an agent duly authorised by such guardian, committee or manager to sign the acknowledgment or make the payment.

(2) Nothing in the said sections renders one of several joint contractors partners, executors or mortgagees changeable by reason only of a written acknowledgment signed by, or of a payment made by, or by the agent of, any other or others of them.

(3) For the purposes of the said sections :--

- (a) an acknowledgement signed or a payment made in respect of any liability by, or by the duly authorised agent of, any limited owner of property who is governed by Hindu Law, shall be a valid acknowledgment or payment, as the case may be, against a reversioner succeeding to such liability; and
- (b) where a liability has been incurred by, or on behalf of a Hindu undivided family as such, an acknowledgement or payment made by, or by the duly authorised agent, of, the manager of the family for the time being, shall be deemed to have been made on behalf of the whole family.

COMMENTARY

If a person is under disability his guardian committee manager can sign or make payment.

If one of the Joint Contractors, partners, executors, Mortgagees makes payment it will not bind the other partners. The Limited owners liability, acknowledgement will be valid and binds the reversioners. The Acknowledgement of Liability by Manager of it if and his duly authorised Agent shall bind the Joint Family.

Lawful guardian is not defined any where. The guardians and wards Act 1890 defines "guardian"

If the Court appoints a guardian or declares an any person as guardian he can be treated as a Lawful guardian¹.

Payment and Acknowledgements made by a Testamentary guardian would Save limitation against Minor².

Court of wards can make acknowledgement and payments so as to Save Limitation in respect of the debts due from the Ward³.

An acknowledgement signed by one Co-Mortgagor would save Limitation as against that person and would be of no avail against others⁴.

Payment by a debtor in the case of a simple promissory note does not extend limitation against a Co- debtor in view of the provisions of sub Sec (2) of this Section⁵.

Acknowledgement of Payment by the Manager for the time being that will Save Limitation⁶.

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ఈ Act లోని 18, 19 సెక్షన్లలో వాడుక చేయబడిన పదం "agent duly authorised in this behalf" అంటే అనర్హతకు (disability కి) గురియైన వ్యక్తియొక్క, Lawful గార్డియన్, కమిటీ లేక మేనేజరు లేదా అట్టి గార్డియను, మేనేజరు, కమిటీ వారిచే అధికారం పొందిన ఏజెంటు అని తెలుసుకోవాలి.

కాని ఒకరికి మించిన జాయింటు కాంట్రాక్టర్లు, పార్టనర్లు, Executors తనఖా పట్టిన వారి విషయంలో ఎవరు acknowledge చేశారో లేక Payment చేశారో వారినే గాని - మిగిలిన వారిని ఆ Payment, acknowledgement bind చేయదు.

1. Chennappa vs Omkarappa, AIR 1940, Mad 38.

2. Rajarajeswari vs Satyanarayana, AIR 1948, Mad 155.

3. AIR 1938, All 217.

4. Md. Taqui vs Rajaram, AIR 1936, All 820 FB.

5. Federal Bank of India vs Som Devi, AIR 1956, Pun Page 21.

6. AIR 76, SC 835.

ఇక హిందూ లా వ్యవహారం వేరుగా ఉంటుంది. ఒక Limited owner - తదుపరి Reversioner ను Bind చేయగలడు. Payment కూడా అంతే. హిందూ జాయింటు కుటుంబ Manager చేసిన acknowledgement Payment ఆ కుటుంబ సభ్యులను Bind చేయును. పైన వ్రాయబడిన తీర్పులు గమనించదగినవి.

21. EFFECT OF SUBSTITUTING OR ADDING A NEW PLAINTIFF OR DEFENDANT

(1) Where after the instituting of a suit, a new plaintiff or Defendant is substituted or added, the suit shall, as regards, be deemed to have been instituted when he was so made a party.

Provided that where the Court is satisfied that the omission to include a plaintiff or defendant was due to a mistake made in good faith it may direct that the suit as regards such plaintiff or defendant shall be deemed to have been instituted on any earlier date.

(2) Nothing in sub-section (1) shall apply to a case where a party is added or substituted owing to assignment or devolution of any interest during the pendency of a suit or where a plaintiff is made defendant or a defendant is made a plaintiff.

COMMENTARY

After filing suit if a new plaintiff or defendant is added to the suit the suit is deemed to have been filed when he is made a party to suit. If by mistake in good faith the parties are not added, the Court may direct addition of parties such addition shall take effect from the date when suit is filed. In Mortgage suits all persons interested must be made parties to the suit¹.

Suit Against Dead Person : On Last day of Limitation Suit Against Dead Person was filed not knowing his death, L.R.O can be added subsequently².

Limitation as to newly added part begin to run from the date of adding as Party however the court may order that the limitation as against newly added party runs from the date of Suit³.

1. Pe Reddy vs Obulamma, AIR 1971, AP 363.

2. Karuppa Swamy vs Rama Murthy, 94(1) An.WR. 74.

3. AIR 2001, S.C. 1185, Ramalingam Chettian vs P.K. Pattabhiraman.

వివరణ

ఈ సెక్షను ఏదేని దావా దాఖలు చేయబడిన అనంతరం చేర్చబడిన పార్టీలకు సంబంధించినది. ఏదైనా దావా దాఖలు అయిన ఏమ్మట కొత్తగా వాడినిగాని ప్రతివాడినిగాని ఆ దావాలో చేర్చితే అట్లు చేర్చబడిన తేదీ నుండే వారిపై దావా దాఖలు చేసినట్లు భావించబడును.

అయితే ఏదేని దావాలో ఒక పార్టీని పారబాటున చేర్చక - తరువాత చేరిస్తే - ఆ పారబాటు నిజాయితీతో కూడుకొనినదైతే (in good faith) అందుపై కోర్టు సంతృప్తి చెందితే అట్లు పార్టీగా చేర్చబడిన తేదీ కాక ఇంకను ఏదేని ముందు తేదీ నుండే చేర్చబడినట్లు భావించవచ్చునని ఆర్డరు వేయవచ్చును.

అయితే ఏదేని దావాలో ఆస్తిహక్కు సంక్రమించుటచేగాని, లిఖిత పూర్వకముగ వానికి దాఖలు పరుచటచేగాని వారిని తొలగించి ఆ స్థానములో మరియొకరిని భర్తీ చేసినా పైన వ్రాయబడిన (1)వ సబ్ సెక్షనులోని రూలు వర్తించదు. అనగా చేర్చబడిన తేదీ నుండే దావా దాఖలు చేసినట్లు అవదు. అటులనే వాడిని ప్రతివాదిగాను - ప్రతివాడిని వాదిగాను మార్చిడి చేసినను మొదటి సబ్ సెక్షను లోని రూలు వర్తించదు.

This Section does not apply to Execution applications, applications filed under Order 21, Rule 100 C.P.C. and Order IX Rule 13 for applications to substitute under Order XXII C.P. Code.

The Provisions of this Section would not apply to appeals.

When a person is added as a party on an application, the addition must be deemed to have effect from the date of application and not from the date on which order is passed to implead¹.

A Suit filed against a Sole defendant who had died prior to the institution of the Suit is a **nullity** and no substitution can be made in the place of original defendant who was dead².

1. AIR 1927, Mad 468.

2. AIR 1977, P & H Page 180.

22. CONTINUING BREACHES AND TORTS

In the case of a continuing breach of contract or in the case of a continuing tort, a fresh period of limitation beings to run at every moment or the time during which the breach or the tort, as the case may be, continues.

COMMENTARY

This Section refers to continuing breach of Contract and continuing Tort, Tort is not defined in the Act. A TORT is defined as follows in Salmond's Jurisprudence "A Tort is a Civil wrong. A wrong is simply a wrong act an act contrary to the rule of right and Justice.

The Section refers not to a Continuing right but to continuing wrong. It is an act which creates a continuing injury.

Putting up of cabins and construction of latrises on the public street by Municipality is a Continuing wrong¹.

The construction of a municipal drain is a continuous wrong².

Construction to a water course is a continuous wrong³.

This Section applies to Suits for Restitution of Conjugal rights⁴.

This Section applies in a Suit for recovery of damages from the defendant who has committed adultery⁵.

వివరణ

ఈ సెక్షను నిరంతరాయంగా సాగుతుండే అక్రమాలకు, అవంతరాలకు (Torts) సంబంధించినది. Tort అంటే చాలా మందికి తెలుసు. కాని దీనిని ఈ చట్టంలో నిర్వచించలేదు. సివిల్ హక్కులకు భంగము కలిగించుటయే Tort అని Torts పుస్తకగ్రంథ కర్త అభిప్రాయపడినారు. Continuing Breach of Contractలోను, Tortsలోను కూడా Injury కలుగుచున్న ప్రతిక్షణము కొత్త Cause of actionకి కొత్త Period of Limitation ఉంటుందని అభిప్రాయం. ధారావాహికంగా ఎన్నాళ్ళనుండో అనుభవిస్తున్న వాయు ప్రసారానికిగాని, వెలుతురు ప్రవేశానికి గాని అటంకం కలిగించినా -ఎన్నో ఏళ్ళనుండో ఉపయోగిస్తున్న దారిని మూసేసినా ఇవన్నీ Civil rightsకి భంగం కలిగించేవే గనుక ఈ సెక్షను క్రిందకే వస్తాయి.

1. AIR 1979, G & J Page 117.

3. AIR 1957, AP 419.

5. 1975, MPLJ 17.

2. AIR 1958, Assam Page 93.

4. AIR 1922, Oudh Page 109.

అటులనే తనను విడిచి వెళ్ళిన భార్య నుండి సంభోగపు హక్కుల పునరుద్ధరణయున్ను; ఎవ్వడేని వ్యభిచరించినచో అట్టి ఆసామీ వద్ద నుండి నష్టపరిహారము కోరుటకు కూడా ఈ సెక్షను వర్తిస్తుంది. ఇది ఎక్కువగా Easement హక్కులకు సంబంధించి ఉంటుంది. Civil హక్కులకు injury కలిగించినంతకాలం ప్రతిక్షణం కొత్త Period of Limitation ఉంటుందన్నదే దీని భావం.

23. SUITS FOR COMPENSATION FOR ACTS NOT ACTIONABLE WITHOUT SPECIAL DAMAGE

In the case of a suit for compensation for an act which does not give rise to a cause of action unless some specific injury actually results therefrom, the period of limitation shall be computed from the time when the injury results.

COMMENTARY

In cases where compensation is claimed, the period of Limitation starts not from the date when injury is sustained but when it resulted in loss. Emphasis is on resulting Loss.

వివరణ

ఏదేని చర్య జరిగించినందుకు గాను నష్టపరిహారం కోరే దావాకు చర్య జరిగించినప్పటి నుండి కాక సదరు చర్య వలన సంభవించిన నష్టము ఏ తేదీన కలిగినదో ఆ తేదీ నుండే కాలదోషం లెక్కించబడును. ఇందు ప్రాధాన్యత జరిగించిన చర్యకు కాదు - అందువలన కలిగిన నష్టముకు అని తెలుసుకోవాలి.

24. COMPUTATION OF TIME MENTIONED IN INSTRUMENTS

All instruments shall, for the purpose of this Act be deemed to be made with reference to the Gregorian calendar.

COMMENTARY

Gregorian calendar means which commences from 1st January to 31st December of every year which contains 12 months which are popularly known as January, February, March, April, May, June, July, August, September, October, November and December. In most of the countries of the world for Trade and all other purposes this Gregorian calendar is followed.

Following the same Gregorian Calendar there are some other years to be reckoned. From 1st January to 31st December (both days inclusive) it is called a calendar year.

For accounting 1st April of one year to the 31st March of next calendar year it is called a Financial year which the governments, Corporations, Banks and other Institutions follow.

Academic year begins with 1st July and mostly ends with 31st March of next year which is followed by universities colleges and other educational institutions.

An agricultural year, Commences with 1 June of every year and ends with 31st May of next year.

In India gregorian Calendar is followed for reckoning months and years for Negotiable Instruments, agreements and for all Court purposes.

For some other purposes there are three types of Calendars that are being followed. In Andhra Pradesh the year is Calculated according to the movements of moon and it is called as "CHANDRA MAANA" and a circle of Sixty years would be counted. The 1st is PRABHAVA - and the last is "AKSHAYA". The Panchagams are prepared for every year. Even days contains the Tidhi (Padyami, Vidiya), Varam i.e., Sunday, Monday etc, means Aswani to Revati (They are 27 in Numbers - Moon enters into one star for one day. Yoga and Korena are also written as it contains, Tidhi, Vara, Star, Yoga and Karema making five it is Pancha (5) Angam "PANCHANGAM". The months are known as Chaitra, Vaisakha, Jyeshtha, Ashadha, Sreavana, Bhadrapada, Aswayuja, Karteeka, Margasira, Pushyam, Phalgun. It is a Scientific Calculation when Moon is full in Chitta Nakshtra it is Chaitram. All other are like that, when the cycle is complete one year Rolls on according to chandra maana.

It may be noted that each star commencing from Aswani to Revati is subdivided into four divisions. $27 \div 4 = 108$ sub divisions. Then they are divided by 12 Raasis called as Mesha, Vrushabha, Midhuna, Karkataka, Simha, Kanya, Thula, Vrishchika, Dhanus, Makara, Kumbha and Meena.

All the planets revolve, rotate and pass through the above 12 Raasis.

In Tamil nadu they follow Soura Maana i.e. according to the movement of the SUN.

The Sun completes his Sojourn in all the 12 Raasis and enters MESHA within one year. The New year day of Soura Maana mostly falls on 14th day of April of every year. Commencing from Mesha - Covering all other Raasis it takes one year for the Sun god to return to Mesha Raasi. It may be noted that Sun takes one month to cross one Raasi to the other.

In Uttar Pradesh and some other States the "MARWARIS" and others follows "BARHAS PATYA" Maana that is according to the movement of "BRAHASPATI" i.e. guru, Brahaspati takes one year to cross one Raasi to the other. Normally this year.

Commences with Deepalli Amavasya which falls in Aswayuja Maasa of Chandra Maana.

Muslims follow their own religious calendar.

So this Section makes it clear that time should be computed for filing suits etc., and also for calculation of period of Limitation Gregorian Calender should be adopted.

వివరణ

దావాలు దాఖలు చేయుటకు ఇతర కోర్టు వ్యవహారములకు కాల పరిమితిని నిర్ణయించుటలో “గ్రెగోరియన్ క్యాలెండర్”ను అనుసరించవలెనని ఈ సెక్షను చెప్పుచున్నది.

గ్రెగోరియన్ క్యాలెండర్ జనవరి 1వ తేదీన మొదలై డిసెంబరు 31వ తేదీతో ముగియును. ఇందు - జనవరి, ఫిబ్రవరి, మార్చి, ఏప్రిల్, మే, జూన్, జూలై, ఆగష్టు, సెప్టెంబరు, అక్టోబరు, నవంబరు, డిసెంబరు అను 12 నెలలున్నవి. ఇవియే తిరిగి వచ్చుచుండును. నాల్గు సంవత్సరములకొక పర్యాయం ఫిబ్రవరి నెలకు ఒక రోజు అధికం వచ్చును. అట్టి సంవత్సరమును “లీపు” సంవత్సరమందురు.

గవర్నమెంటు వ్యవహారములు, కోర్టు వ్యవహారములు, వ్యాపార సరళి, విద్యా సంస్థలు గ్రెగోరియన్ క్యాలెండర్‌నే ప్రామాణంగా తీసికొందురు. జనవరి 1వ తేదీ నుండి డిసెంబరు 31వ తేదీ వరకు గల సంవత్సరమును Calendar Year అంటారు.

ఏప్రిల్ 1వ తేదీ నుండి రాగల మార్చి 31వ తేదీ వరకు గల సంవత్సరాన్ని Financial year అంటారు.

జూలై 1 నుండి రాగల మార్చి నెలాఖరు వరకు గల సంవత్సరాన్ని విద్యా సంవత్సరం అంటారు.

జూన్ 1వ తేదీ నుండి రాగల సంవత్సరం మే నెలాఖరు వరకు గల కాలాన్ని వ్యవసాయ సంవత్సరం అంటారు.

పెళ్ళిళ్ళు, భవన నిర్మాణాలు మొదలగు ఇతర పనులకు ఒక్కొక్క రాష్ట్రం ఒక్కొక్క క్యాలెండర్‌ని అనుసరించడం గమనిస్తున్నాం. ఆంధ్రప్రదేశ్ అంతటా చాంద్రమాన పంచాంగాలను అనుసరిస్తారు. ఈ పంచాంగములు చైత్రమాసంతో ప్రారంభింపబడి - ఫాల్గుణ మాసంతో అంతం అవుతాయి. ఈ సంవత్సరములకు “ప్రభవ” మొదలు “అక్షయ” వరకు 60 సంవత్సరములు కలవు. అవే తిరిగి వచ్చుచుండును. ఈ చాంద్రమాన సంవత్సరం చంద్రుని పరిభ్రమణాన్ని బట్టి నిర్ణయింపబడుతుంది. చైత్రం, వైశాఖం, జ్యేష్ఠం, ఆషాఢం, శ్రావణం, భాద్రపదం, ఆశ్వయుజం, కార్తీకం, మార్గశిరం, పుష్యం, మాఘం, పాల్మణం అనేవి పన్నెండు చాంద్రమాన నెలలు. చిత్తా నక్షత్రంతో చంద్రుడున్న పౌర్ణమి చైత్రం. ఇటులనే అన్ని నెలలు ఏర్పడును. చంద్రుడు రోజుకొక నక్షత్రం మారుచుండును. నక్షత్రమునకు నాలుగు పాదములు చొప్పున $27 \text{ నక్షత్రములకు } 27 \times 4 = 108 \text{ పాదములు}$. వీటిని 12 రాసులుగా విభజింపబడినవి. అవేమనగా మేషం, వృషభం, మిథునం, కర్కాటకం, సింహం, కన్య, తుల, వృశ్చికం, ధనుస్సు, మకరం, కుంభం, మీనం. గ్రహములన్నియు ఈ 12 రాసులలోనే సంచారము సల్పుచుండును. చాంద్రమానంలో రెండున్నర సంవత్సరములకొక “అధికమాసం” వచ్చుచుండును.

ఇక తమిళనాడంతట సూర్యుని గతిననుసరించి “సౌరమానమును” అనుసరింతురు. సూర్యుడు మేషరాశి నుండి బయలుదేరి 12 రాసులలో పరిభ్రమించి తిరిగి మేషరాశికి వచ్చుసరికి ఒక సంవత్సరమగును. దీనినే సౌరమాసం అందురు.

ఇక ఉత్తరప్రదేశ్ మొదలగు కొన్ని రాష్ట్రాలులలో బృహస్పతి గతిన బట్టి సంవత్సరం నిర్ణయించు కుంటారు. బృహస్పతి సంవత్సరానికి ఒక రాశి మారును. దీనిని బార్హస్పత్యమాసం అంటారు.

అయితే కోర్టు వ్యవహారాలన్నిటికి Gregorian Calendar ప్రకారమే లెక్కలు కట్టవలెనని నిర్ణయింపబడినది.

PART - IV
ACQUISITION OF
OWNERSHIP BY POSSESSION
25. ACQUISITION OF
EASEMENTS BY PRESCRIPTION

(1) Where the access and use of light or air to or for any building have been peaceably enjoyed there with as an easement and as of right without interruption, and for Twenty years, and where any way or watercourse of the use of any water or any other easement (Whether affirmative or negative) have been peaceably and openly enjoyed by any person claiming title there to as an easement and as of right without interruption and for twenty years, the right to such access and use of light or air, way, watercourse, use of water, or ther easement shall be absolute and indefeasible.

(2) Each of the said periods of twenty years shall be taken to be a period ending within two years next before the institution of the suit wherein the claim to which and such period relates is contested.

(3) Where the property over which a right is claimed under sub-section (1) belong to the Government, that sub-section shall be as if for the words "twenty years" the words "thirty years" were substituted.

Explanation :- Nothing is an interruption within the meaning of this section, unless where is an acutal discontinuance of the possession or enjoyment by reason of an obstruction by the act of some person other than the claimant, and unless such obstruction is submitted to or acquiesced in for one year after the claimant has notice thereof and of the person making or authorising the same to be made.

COMMENTARY

Where use of Light, air, for a house or a Water Course, Way are being enjoyed for over 20 years without obstruction the easement will be absolute one. The period of one year has to be reckoned from Two years prior to date of filing of Suit. A owner of high level Land having right to drain off surpus surface Water to lower level Lands¹.

To claim Easementory right against Goverment it should be enjoyed for over 30 years.

1. Venkata Reddi vs Koti Reddy, AIR 1961, A.P. 81.

A person claiming prescriptive title should state facts on which plea is based¹.

Plaint - Limitation : Plaint represented more than one year after time given for rectification. Suit held to be barred by Limitation².

When demand is made for Payment of Amount, time runs from the date of demand³.

వివరణ

గాలి, వెలుతురు, దారి మార్గం, నీటి వనర్శ ఆటంకం లేకుండా దావా వేసే తేదీకి 2 సం॥ పూర్వం 20 సం॥పాటు ఆటంకం లేకుండా వాడుతూ ఉంటే ఆ హక్కు ప్రిస్క్రిప్టెడ్ హక్కు అవుతుంది.

అయితే ప్రభుత్వం అస్తిపై ఆ హక్కు 30 సం॥ పాటు వాడుకుంటూ ఉంటేనే ప్రిస్క్రిప్టెడ్ హక్కు అవుతుంది.

This Section should be read along with Eastments Act. To acquire a right of way as an easement it is necessary to prove that where has been an actual enjoyment of the right and it is peaceable and at the same time it is open and as of right. It is equally necessary that the enjoyment is without interruption and the right has been enjoyed for 20 years.

ఒకరి అస్తిపై మరియొకరు (ప్రక్కనున్నవారు) గాలిని, వెల్తురును పొందు హక్కు కలుగుటను ఈజ్మెంటు అంటారు. అటులనే నడక - బండి మార్గములు. నీటి కాల్వలు మొదలగునవి ఈ సెక్షను క్రిందికి వచ్చును. నిరంతరాయముగ - నిరాటంకంగా 20 సంవత్సరములు అట్టి హక్కు అనుభవిస్తే అదే ఈజ్మెంటు హక్కు (అనుభవం ద్వారా పొందిన హక్కు) అవుతుంది.

1. karimullakhan vs.Bhanu Pratap Singh, AIR 1949, Nag 265.

2. SBI vs Indian Utility Producers, AIR 2001, Delhi 30.

3. AIR 1964, SC 1256.

26. EXCLUSION IN FAVOUR OF REVERSIONER OR SERVIENT TENEMENT

Where any land or water upon, over or from, which any easement has been enjoyed or derived has been held under or by virtue of any interest for life or in terms of years exceeding three years from the granting thereof, the time of the enjoyment of such easement during the continuance of such interest or term shall be excluded in the computation of the period of twenty years in case the claim is, within three years next after the determination of such interest or term resisted by the person entitled on such determination to the said land or water.

COMMENTARY

This section deals with two types of cases where the person enjoying the Easement right is only a life interest holder of dominant heritage and another case is where the enjoyment of Easement is granted for a particular period than 3 years. After the determination of life interest and coming to an end of grant the person entitled to it **is resists** the period thus enjoyed by the above said persons shall be excluded when calculating the period of 20 years.

వివరణ

ఎవరేని జీవిత కాలపు హక్కుదారుడు గాని; లేదా పరిమిత కాలం మాత్రమే ఈజ్మెంటు హక్కు అనుభవించుటకు హక్కు పొందిన ఆసామీలు ఆ భూమికి సంబంధించిన లేదా నీటిపారుదలకు సంబంధించిన ఈజ్మెంటు హక్కు గడువు తీరిపోగానే అసలు హక్కుగల ఆసామీ తగవు చేస్తే (Resist చేస్తే) ఆ Easement హక్కు అనుభవపు గడువు 20 ఏండ్లలో నుండి పైన వ్రాయబడిన రెండురకముల హక్కులకు సంబంధించిన కాలపరిమితిని తగ్గించి (Exclude చేసి) గణించాలి అని తెలుసుకోదగును.

27. EXTINGUISHMENT OF RIGHT TO PROPERTY

At the determination of the period hereby limited to any person for instituting a suit for possession or any property, his right to such property shall be extinguished.

COMMENTARY

The Law of Limitation Prescribes a specified period of Limitation for filing suit for possession i.e. 12 years from the date of dispossession. If the Suit is not filed within the period the Title to property is extinguished - in favour of possessor¹.

Time Barred Debt - Revoery : Remedy to enforce liability is destroyed Debt continues till it is not paid - creditor if he is in possession of security. debt could be adjusted from it².

"Possession" is a flexible word. It may be constructive possession permissive possession a matter of inference is to be drawn from proved facts³.

Suit for title : Plaintiff in Possession of Property for 18 years by virtue of Sale deed in his favour - Plaintiff could be said to have perfected title⁴.

వివరణ

స్థిరాస్తి స్వాధీనంపై గడువు 12 సం॥ ఉంది. ఆ గడువులోగా దావా వేయనిచో ఆస్తిపై హక్కు కోల్పోవుదురు.

In the case of an invalid or void Sale, the purchaser would be in possession adverse to the vendor, even if the Sale itself does not confer any Title immediately still the vendee acquires valid Title on the expiry of 12 years from the date of Sale by virtue of provisions of this Section⁵.

In the case of an oral Sale of immovable property of the value of more than Rs. 100/- the purchaser would be in possession adverse to the title of the Vendor the Vendee acquires a valid Title on the expiry of 12 years from the date of oral Sale⁶.

1. Pujyam Jogfa vs Ram, AIR 1940, Nag Page 9, F.B.

2. Panjab National Bank vs S.P. Sinha, 93(1), An.W.R. 104, 93(), Sec 499.

3. AIR 1951, Ori Page 183.

4. B. Kiran vs B.K.Naik, AIR 99 SC 876.

5. M. Lakshmi Devamma vs Land Acquisition Officer, AIR 1985, AP 200.

6. AIR 1985, AP Page 200, AIR 1983, Noc 187 AP.

PART V**MISCELLANEOUS****28. AMENDMENT OF CERTAIN ACTS**

By repealing and Amending Act 1974 (56 of 1974) Section 2 1st Schedule (20-2-1974) Section 28 as it stood earlier has been repealed.

ఈ సెక్షను 1974 నుండి తొలగించబడినది.

29. SAVINGS

(1) Nothing in this Act, shall affect Section 25 of the Indian Contract Act, 1872 (9 of 1872).

(2) Where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed by the Schedule, provisions of Section 3 shall apply as if such period were the period prescribed by the Schedule and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by in Section 4 to 24 (inclusive) shall apply only in so far as, and to the extent to which, they are not expressly excluded by such special or local law.

(3) Save as otherwise provided in any law for the time being in force with respect to marriage and divorce, nothing in this Act shall apply to any suit or other proceedings under any such law.

(4) Sections 25 and 26 and definition of "easement" in Section 2 shall not apply to cases arising in the territories to which the Indian Easement Act, 1882 (5 of 1882) may for the time being extend.

COMMENTARY

A Special Law, or State Laws may prescribe a specific period of Limitation. The period prescribed by such special or State Law alone will be applicable. If no such period is prescribed by special or Local Law, the period prescribed in the Limitation alone will be applicable.

SECTION 25 OF THE INDIAN CONTRACT ACT READS AS FOLLOWS

"25. Agreement without consideration, void, unless it is in writing and registered, or is a promise to compensate for something done, or is a promise to pay a debt barred by limitation law. --An agreement made without consideration is void, unless--

(1) It is expressed in writing and registered under the law for the time being in force for the registration of (Documents), and is made on account of natural love and affection between parties standing in a near relation to each other, or unless

(2) It is a promise to compensate, wholly or in part, a person who has already voluntarily done something for the promisor or something which the promisor was legally compellable to do; or unless

(3) It is promise, made in writing and signed by the person to be charged therewith, or by his agent generally or specially authorised in that behalf, to pay wholly or in part a debt of which the creditor might have enforced payment but for the law for the limitation of suits.

In any of these cases, such an agreement is a contract.

Explanation 1 : Nothing in this Section shall affect the validity, as between the donor and donee, of any gift actually made.

Explanation 2 : An agreement to which the consent of the promisor is freely given is not void merely because the consideration is inadequate; but the inadequacy of the consideration may be taken into account by the Court in determining the question whether the consent of the promisor was freely given"

COMMENTARY

Nothing in the Limitation shall affect Sec 25 of the Indian Contract Act Section 75 is narrated above.

The above Section speaks about Contracts which are valid even though there is no consideration for the same, Hence the provisions of this Limitation Act are not made applicable to Sec 25 of the Indian Contract Act.

Sub Section contains two limits.

If any local or special Law prescribes a period of limitation different from that of the Schedule attached to this Act, that period of Limitation

applies as if it was a part of this Schedule and if the Suit etc is not filed within that time Section 3 applies and the Court has to dismiss Such Suit.

The Second limitation that where the Local or special Law prescribes a Period of Limitation, the Said Period of Limitation in cases falling under Sections 4 to 24 unless Such application is expressly excluded. As the principles enunciated in Sections 4 to 24 are of universal applicable to any Law unless they are excluded.

Since the Laws relating to marriage and divorce stand on a different footing, this Limitation Act is not made applicable to those proceedings Hindu marriage, Act, muslim marriages are governed mostly by these personal Laws, Hence they cannot be generalised.

వివరణ

ప్రతిఫలం లేకపోయినా చెల్లుబాటు అయే Contracts కొన్నింటిని Contract Act Section 25 పేర్కొంది. కాబట్టి వాటికి ఈ చట్టం వర్తించదు.

ఏదేని ప్రాంతీయమైన లేక ప్రత్యేకమైన Enactment ఉండి అందలి Proceedingsకి కాలపరిమితి వేరు విధంగా ఉంటే ఆ కాలపరిమితి కూడా ఈ చట్టంలోని షెడ్యూలు ప్రకారమే వర్తించుచున్నట్లు భావించి - ఇందలి 3వ సెక్షను ప్రకారం ఆకాలపరిమితిని దాటేక దాఖలు కాబడిన దావాలను కోర్టు dismiss చెయ్యాలి.

ఇక ఏదేని ప్రాంతీయమైన లేదా స్పెషల్ Enactmentలో చేర్చబడిన కాలదోషం పరిమితిని పొడిగించడానికి ఇందలి 4 నుండి 24 సెక్షన్లలో చెప్పబడిన అంశములను అమలు పరచి ఉపయోగించుకోవచ్చును. 4 నుండి 24 సెక్షన్ల అమలును Expressగా రద్దు చేస్తే తప్ప.

ఇక వివాహాలకి - విడాకులకు సంబంధించిన దావాలకు ఈ కాల నిర్ణయ చట్టం వర్తించదు.

హిందూ వివాహాల చట్టంలో వాటికి సంబంధించిన సెక్షన్లున్నాయి. అటులనే Special Marriage Act, ముస్లిం వివాహాలకు సంబంధించి వాళ్ళు Personal Law ప్రకారమే అమలు జరుగుతాయి. కావున వాటిని ఈ Act పరిధిలోనికి రానియలేదు.

CASE LAW

It was held that this Limitation Act is not applicable to AP Rent Control Act¹.

1. Nagabushanam vs Raghavayya, AIR 1968, AP Page 70.

But Section 5 of the Limitation Act applies to proceedings before Rent Controllers¹.

It was held that Limitation Act is not applicable to Proceedings under Delhi Rent Control Act².

Section 5 of Limitation Act is applicable to proceedings under Land Acquisition Act³.

Section 5 of Limitation Act does not apply to the application filed before Land Tribunal constituted under the Mysore Land Reforms Act because such a Tribunal is not a court⁴.

Section 5 of the Limitation Act does not apply to an application filed before the munsif under Rule 17 of the Mysore village panchayats Election of Chairman and Vice Chairman Rules because Munsif is not an Court but a Person designata⁵.

Section 5 of Registration Act does not apply to applications filed before the District Registrar filed under Sec 73 of the Registration Act because the Registrar is not a Court⁶.

It was held by the Supreme Court that Section 5 of the Limitation Act does not apply to the Election petition filed under the Representation of People Act⁷.

The A.P. High Court condoned delay of 266 days in filing whith appeal as it is satisfied that the appellant met with an accident⁸.

1. G.D.M. Rao vs Ranga & Others, AIR 1975, AP Page 13.

2. AIR 1980, Del 216.

3. AIR 1985, Guj 115.

4. AIR 1972, Mys 311.

5. AIR 1970, Mys Page 166.

6. AIR 1975, All Page 354.

7. AIR 1974, SC 480, Hikumdev Naraya Yadav vs Lalit Narayan.

8. AIR 1980, AP 335.

30. PROVISION FOR SUITS., FOR WHICH THE PRESCRIBED-PERIOD IS SHORTER THAN THE PERIOD PRESCRIBED BY THE INDIAN LIMITATION ACT 1908

Notwithstanding anything contained in this Act-

(a) any suit for which the period of limitation is shorter than the period of limitation prescribed by the Indian Limitation Act 1908, may be instituted within the period of (Seven Years) next after the commencement of this Act or within the period prescribed for such suit by the Indian Limitation Act 1908, whichever period expires earlier.

(Provided that if in respect of any such suit, said period seven years expires earlier than the period of Limitation Prescribed therefor under the Indian Limitation Act, 1908, and the said period of seven years together with so much of the period of Limitation in respect of such suit under the Indian Limitation Act, 1908 as has already expired the commencement of this Act is shorter than the period prescribed for such suit under this Act, then, the suit may be instituted within the period of Limitation prescribed thereof under this Act. (Inserted by Act 10 of 1969).

(b) Any appeal or application for which the period of Limitation is shorter than the period of Limitation prescribed by the Indian Limitation Act 1908, may be preferred or made within a period of ninety days next after the commencement of the Act or within the period prescribed for such appeal or application by the Indian Limitation Act, 1908, whichever period expires earlier.

COMMENTARY

This Limitation Act came into force from the year 1964. Hence purpose of this section is almost over. Supreme Court held that liberal construction should be placed¹.

1. AIR 1967, SC 1318.

31. PROVISION AS TO BARRED OR PENDING SUITS, ETC..

Nothing in this act shall --

(a) enable any suit, appeal or application to be instituted, preferred or made for which the period of limitation prescribed by Indian Limitation Act, 1908 expired before the commencement of this Act, or

(b) affect any suit, appeal or application instituted, preferred or made before any pending at such commencement.

COMMENTARY

This present Limitation Act is not retrospective.

Any Suit, application or appeal which became time barred by the date this New Limitation Act (1963) cannot be filed after commencement of this New Act. The concerned persons cannot be allowed to take advantage of passing of this New Act. further for the Suits, appeals and applications, filed and which are pending by the date of commencement of this New Act. The Limitation Act of 1908 only applies.

వివరణ


ఈ నూతన చట్టం అమలులోనికి రాక పూర్వమే 1908వ కాలదోషం చట్టం ప్రకారం కాలదోషం పట్టిన దావాలకు అప్పీళ్ళకు, ధరఖాస్తులకు కొత్త చట్టం వర్తించదు. అంతేకాదు: కొత్త కాల నిర్ణయచట్టం అమలులోనికి రాక పూర్వమే దాఖలు చేయబడి ఆ తేదీ నాటికి పెండింగుగా ఉన్న దావాలకు అప్పీళ్ళకు, ధరఖాస్తులకు కూడా ఈ నూతన కాలనిర్ణయ చట్టం (1963) వర్తించదు. 1908లో వచ్చిన చట్టం ప్రకారమే కాలదోషం నిర్ణయించబడును¹.

32. REPEAL :- 1 (* * *)

This Section has been omitted by Act 50 of 1974.

వివరణ

1974 సంవత్సరంలో వచ్చిన Act ప్రకారం 2 32వ సెక్షను తొలగించబడినది.



THE SCHEDULE

FIRST DIVISIONS-SUITS

Description of Suits	Period of Limitation	Time from which Period begins to run
1. For the balance due on mutual, open and current account, where there have been reciprocal demands between the parties,	Three years	The close of the year in which the last item admitted or proved is entered in the account, such year to be computed as in the account.

COMMENTARY

The Schedule contains Articles Each Article is having three columns. The articles are divided according to the nature of proceedings. First column contains the description of the proceeding - second column speaks about the period of limitation before which the suit, appeal, application or Revision has got to be filed. The Third column contains as to the time or date from which the period fixed is to be reckoned. They should be carefully followed:

The first article contains the time before which a suit is to be filed for recovery of balance due on mutual open and current Account when there is reciprocal demands between the parties.

The suit has to be filed within three years from the close of the year¹.

Mutual open and current account means that transactions must be on the debit and credit sides on the same point also².

Shifting on balance may be enough to using the case under this Article³.

Bank overdraft A/c : It is a mutual Current, Open Account⁴.

There must be mutual dealings, independent obligations two sets of Transaction⁵.

When Balance had been struck on a Particular days, demands for Payment Culminating in registered Notice of demand was made the a/c cease to be open, Mutual a/c on the date when balance was struck⁶.

1. A. Anjaneyulu vs Ajit Traders, AIR 1973 A.P. 219
 3. M.A.Khan vs Com & Ind Bank, AIR 1966 AP 194
 5. AIR 1959, S.C. 1349.

2. AIR 1959 SC 1349)
 4. AIR 1965, S.C. 1715.
 6. AIR 1955, All 41.

వివరణ

ఖాతాబాకీ వసూలు చేయుటకు కాలపరిమితి మూడేళ్లు. ఖాతా క్లోజ్ అయిన సంవత్సరం నుండి లెక్కకట్టాలి. జమ-ఖర్చు రెండు వైపుల వ్యవహారం జరిగినప్పుడే ఇది వర్తిస్తుంది.

Description of Suits	Period of Limitation	Time from which Period begins to run
2. Against a factor for an account	THREE YEARS	When the account is during the continuance of the agency demanded and refused or where no such demand is made, when the agency terminates.

COMMENTARY

This corresponds to article 88 of repealed 1908 Act, This and articles 3&4 deal with cases of Agency. Period begin to run from the date of demand and the date of refusal or when the agency terminates. From that date suit is to be filed within three years, "Factor means a person agent to whom goods are given for sale, The agent is having a lien on the goods.

After last item is admitted and Proved mere entries of interest will no prevent running of Time¹.

వివరణ

సొంతదారు తన ఏజెంటు వద్ద నుండి తనకు రావలసిన సొమ్ము రాబట్టుకొనుటకు దావా చేయుటకు గడువు మూడు సంవత్సరాలు.

1. AIR 1967, S.C. 1058.

Description of Suits	Period of Limitation	Time from which Period begins to run
3. By a principal against his agent for moveable property received by latter and not accounted for.	Three years	When the account is during the continuance of the agency, demanded and refused or, where no such demand is made, when the agency, terminates.

COMMENTARY

This corresponds to Act 89 of 1908 Act which is repealed. A Principal can file a suit against his agent under this article for recovery of any movable property, money also comes under definition of movable property.

The managing agents and Secretaries can be sued for accounts under this article.

It may be noted that time begins to run when the demand for accounts was refused or when the agency comes to an end. Agency comes to an end either when the principal revokes the authority of the Agency or when the Agency renouncing business. It also comes to an end when either the Principal or agent dies. It also ends when business is closed¹.

వివరణ

తన పన్నులు విక్రయించుటకు నియమించబడిన ఏజెంటు వద్ద నుండి చరాస్తిని రాబట్టుకొనుటకు దావా చేయుటకు గడువు 3 సంవత్సరాలు - ఎప్పటి నుండి అనగా - ఏజెంటు Account చెప్పటకు నిరాకరించినప్పటి నుండి గాని - ఏజెంట్ని Close అయినప్పటి నుండి గాని మూడేళ్లు.

Description of Suits	Period of Limitation	Time from which Period begins to run
4. Other suits by Principal against agent for neglect or misconduct	Three years	When the neglect or misconduct becomes known to the plaintiff

COMMENTARY

This article corresponds to article 90 of the old Act. Where article 3 is not applicable this article applies. This enables the Principal to sue his agent for negligence or misconduct. If the agent does an act which is not authorised by the Principal is misconduct.

What is neglect is stated in the following case¹.

Time Barred Debt - Recovery : Remedy to enforce Liability is destroyed. Debt Continues till it is not Paid. Creditor if he is in Possession of Secur debt Could be adjusted from it².

వివరణ

అలసత్వం (బద్ధకం) చేతగాని, కావలసి పొరపాటు చేసిన agent పై దావా చేయుటకు గడువు మూడేళ్ళు.

1. P.N. bank ltd vs RBL, AIR 1960 P&H 590.

2. Panjab National Bank vs S.P. Sinha, 93(1) An.WR 104, 93(1) Scc 499.

Description of Suits	Period of Limitation	Time from which Period begins to run
5. For an account and a share of the profits of dissolved partnership.	Three years	The date of dissolution.

COMMENTARY

This article corresponds to article 106 of 1908 Act.

For filing a suit against a dissolved partnership time given is three years. The Suit should be for accounts and share of profits. Time begins to run from date of dissolution¹.

In deciding whether the article applies or not the nature of Suit should be looked into².

వివరణ

ఉమ్మడి వ్యాపార సంస్థ (Partnership) నుండి తనకు రావలసిన లాభం పొందుటకు Account చెప్పమనికోరుటకు సదరు సంస్థ మూయబడిన (dissolve) అయిన తేదీ నుండి మూడు సంవత్సరాలలో దావా చెయ్యాలి.

Description of Suits	Period of Limitation	Time from which Period begins to run
6. For seaman's wages	Three years	The end of the voyage during which the wages are earned.

COMMENTARY

This has relation to the Indian merchants Shipping Act 1923. Seaman has a right to recover wages. His right is based on service contract. The time begins to run from the date when the voyage ends. If the claim is less than Rs. 500/-, the seaman can sue in a court of small causes.

వివరణ

నావికుడు తనకు రావలసిన జీతం రాబట్టుకోడానికి గడువు మూడు సంవత్సరములు. తన ప్రయాణం ముగిసిన సంవత్సరం నుండి కాలగమనం లెక్కించాలి.

1. Y.C.Rattayya vs V.D.Venkatramayya, AIR 1959 AP Page 551.

2. Peer Saheb vs Jamaluddin, AIR 1958 AP Page 48.

Description of Suits	Period of Limitation	Time from which Period begins to run
7. For wages in the case of any other person	Three years	When the wages accrue due.

COMMENTARY

In the case of any other employee i.e. not being a seaman, for recovery of his wages, the period of limitation is Three Years. House hold servants, Cooks, Bus conductors, artisans come under this section.

Arrears of Salary, Pension, Suit for recovery of Arrears of pay by Government servant is governed by Article 7¹.

For a Claim for Arrears of Salary, no declaration as to void Character of dismissal is needed².

Suit for Arrears of Pay filed within 3 year from the date of Judgement in Appeal held valid³.

వివరణ

ఇండ్లలో పనిచేయు నౌకర్లు, బస్సు కండక్టర్లు, చేతి వృత్తులవారు ఈ కేటగిరి లోనికి వస్తారు.

"Wages" means according to "Oxford Dictionary amount payable periodically especially by the day or week or month for during which workmen is at an employer's disposal.

The real test is whether the emoluments are payable by an employer to his servant⁴.

This article applies for recovery of salary⁵.

1. AIR 1962, SC 8, AIR 72, SC 2638.

3. 1997 (2) ALT 159 = 97(2) ALD 491.

4. Vedagiri vs Sankarachari, AIR 1935 MAD 128

5. Madhav Laxman vs State of Mysore, AIR 1962 S.C. Page 39

2. AIR 1974, SC 338.

Description of Suits	Period of Limitation	Time from which Period begins to run
8. For the price of food or drink sold by the keeper of a Hotel, tavern or Lodging House.	Three years	When the food or drink is delivered.

COMMENTARY

Hotel means a house to entertain Strangers or Travellers where food and drink are served for Price.

Tavern means a small Hotel where drinks are sold in less quantities. Lodging house is a house where accommodation is provided for rent usually on daily rent basis. Limitation starts from the date when food or drink is delivered. It is Three Years.

వివరణ

ఏదేని హోటల్, వసతి గృహం, చిన్న పానశాల నుండి భోజనం పానీయములు సమకూర్చిన తేదీ నుండి వాటి ధర నిమిత్తం మూడేళ్ళలో దావా చెయ్యాలి.

Description of Suits	Period of Limitation	Time from which Period begins to run
9. For the price of lodging	Three years	When the price becomes payable.

COMMENTARY

In a lodging house there would be several Rooms with amenities and reasonable facilities and the rent is payable for every day. It is not a Tenancy. Suit to recover amount payable for the Lodging has to be file within Three years.

వివరణ

వసతి గృహమునకు చెల్లించవలసిన Price(అడ్డ) రాబట్టుటకు దావా చేయుటకు గడువు మూడేళ్ళు.

Description of Suits	Period of Limitation	Time from which Period begins to run
10. Against a Carrier for compensation for losing or injuring goods.	Three years	When the loss or an injury occurs

COMMENTARY

Where delivery was effected but the goods are in a damaged condition or delivered in a lesser quantity this article applies¹.

What is claimed in a suit against the Railway authorities is compensation for the damage to the goods which were eventually delivered this article applies².

A Suit for loss or injury against carrier carriage by Sea this article applies³.

Description of Suits	Period of Limitation	Time from which Period begins to run
11. Against a carrier for compensation for nondelivery of or delay in delivering goods.	Three years	When the goods ought to be delivered.

COMMENTARY

This article applies where goods are not delivered or if there is delay in delivering goods. A Suit against a carrier for mis-delivery falls under this article⁴.

This article applies to all cases of claims of non-delivery irrespective of the question whether the suit is laid on contract or Tort.

This article applies to a case of compensation for damages on account of Short delivery⁵.

1. Scaddutt vs Union of India, AIR 1960 A.P. Page 406

2. Jutmull vs D.H. Rly, AIR 1962 Sc. Page 1879

3. FAR Eastern streamship co. vs Kota Trading co., AIR 1978 A.P. 433.

4. Union of India vs Ram Chanak & co., AIR 1974 MAD 335

5. Union of India vs J.C.Naha, AIR 1971 Pat 247

When there is term in Contract fixing time to be delivered, that would be the time when goods ought to be delivered, when there is no term fixing of date of delivery, it can be inferred by counting time from date of delivery at the Place of despatch time taken for carriage of goods to destination¹.

వివరణ

సరుకులు చేరవేయు Carrier పై goods అందించక పోవుటకు, మరియొకరికి చేరవేసి నందుకు, తక్కువగా delivery ఇచ్చినందుకు నష్టపరిహారం రాబట్టుకొనుటకు గడువు 3 సంవత్సరములు. ఎప్పటికి delivery చేయవలసి యుండెనో అప్పటినుండి గడువు 3 ఏళ్లు.

Description of Suits	Period of Limitation	Time from which Period begins to run
12. For the hire of animals vehicles or house-hold furniture.	Three years	When the hire becomes payable.

COMMENTARY

To recover hire for giving animals, Vehicles, Boats and House-hold furniture the time is 3 years from the date when the hire became payable².

Promissory Notes - Limitation : Date on which promissory note executed is to be excluded³.

వివరణ

పశువులనుగాని, వాహనములనుగాని, పడవలనుగాని, గృహోపకరణములనుగాని అద్దెకిస్తే ఆ అద్దె రాబట్టుకొనుటకు గడువు 3 సంవత్సరాలు. ఏ తేదీ నాటికి ఆ అద్దె (Hire) ఇయ్యవలసియుండెనో అప్పటి నుండి 3 ఏళ్లు లెక్కించాలి.

1. AIR 1962, S.c. 1716.

2. 165 (AIR 1962 Sc Page 1281).

3. Venkayala Bhacham vs Noni Venkata Rao, 2002(1) ALD 341.

Description of Suits	Period of Limitation	Time from which Period begins to run
13. For the balance of money advanced in payment of goods to be delivered.	Three years	When the goods ought to be delivered.

COMMENTARY

The Suit must be for the balance of money advanced in payment of goods to be delivered. In other words the Suit is for refund of balance of money advanced in payment of goods to be delivered and time begins to run from the date when goods ought to be delivered.

Where money was paid in advance for delivering goods and if the goods are not delivered as agreed in full, the plaintiff can file a suit to recover balance of money remained in the hands of the defendant. The time within which the Suit has to be filled is three years from the date when the goods ought to have been delivered¹.

వివరణ

ఎవరైనా goods సపై చేయు నిమిత్తం సామ్మి advance గా ఇచ్చిన యెడల - సామ్మి తీసికొనిన ఆసామీ అనుకున్న ప్రకారం goods అంతయు deliver చేయని యెడల ఏమేరకు సపై చేయలేదో ఆమేరకు balance of money వసూలు చేయుటకు దావాచేయుటకు గడువు 3 ఏళ్లు.

Description of Suits	Period of Limitation	Time from which Period begins to run
14. For the price of good sold and delivered where no fixed period of credit is agreed upon.	Three Years	The date of the delivery of the goods.

COMMENTARY

The word goods is not defined in this Act. But "Sale of goods Act" defines "every kind of movable property other than money and actionable claims, This article applies also to Suits for Recovery of Prices of Medicines. This article applies for goods sold. The Period commences from date of delivery of goods in cases where no fixed Period of Credit is agreed.

1. Bhawarlal vs State, AIR 1976 Raj 125.

Electricity is goods within the meaning of this Article¹.

If Payment is not made within 30 days as mentioned in invoices suits for recovery of Money can be filed within 3 years of expiry 30 days².

వివరణ

అరుపు చేరంపై అమ్మిన వస్తువుల ధర వసూలు చేయుటకు దావా వేయుటకు వస్తువులు డెలివరీ చేసిన తేదీ నుండి 3 సం॥లు.

Description of Suits	Period of Limitation	Time from which Period begins to run
15. For the price of goods sold and delivered to be paid for after the expiry of a fixed period of Credit.	Three years	When the period of Credit expires

COMMENTARY

This Article applies to Suits for the Price of goods sold and delivered to be paid for after the expiry of period of Credit. The limitations starts when the Period of Credit of expires according to terms of Contract.

Since Payment was not made within 30 days by Company as Contemplated by invoices Suit for recovery can be filed within 3 years of expiry of Said 30 days³.

వివరణ

వస్తువులను విక్రయించి వాటి ధర నిర్ణయించిన గడువులో తీసికొనుటకు అంగీకరించిన ఆసామీ సదరు సొమ్ము వసూలు చేయుటకు నిర్ణయింపబడిన గడువు తేదీ నుండి 3 సం॥లో దావా వేయవలెను.

1. S. Ginning factory vs State, AIR 1971 Madras 309.

2. Hindustan Thermo (P) Ltd vs D.R. Ltd, AIR 1999, Dehli 202.

3. Hindustan Thermo Ltd vs DRer Ltd, AIR 1999 Delhi 202.

Description of Suits	Period of Limitation	Time from which Period begins to run
16. For the price of goods sold and delivered to be paid for by a bill of exchange on such bill being given.	Three years	When the period of the proposed bill elapses.

COMMENTARY

This Article applies to sale of goods to Suits for Price of goods sold and delivered to be Paid for by Bill of Exchange, no such bill being given the Period to recover the Amount is 3 years from when the period of proposed Bill elapses.

వివరణ

విక్రయించి డెలివరీ చేయబడిన వస్తువుల ధర బిల్ ఆఫ్ ఎక్స్‌చేంజి ద్వారా యిచ్చుటకు అంగీకరిస్తే ఆ బిల్ ఆఫ్ ఎక్స్‌చేంజి అసలే యివ్వనిచో ఆ వస్తువుల ధర రాబట్టుటకు వాది దావా చేయుటకు 3 సం॥ గడువు. ఆ గడువు బిల్ ఆఫ్ ఎక్స్‌చేంజి యివ్వవలసిన (ఆదరణ) చేయవలసిన తేదీ నుండి ప్రారంభం అగును.

Description of Suits	Period of Limitation	Time from which Period begins to run
17. For the price of trees or growing crops sold by the plaintiff to the defendant where no fixed period of credit agreed upon.	Three years	The date of the sale.

COMMENTARY

This Article refers to filing of Suit for recovery of Price of Trees or growing Crops sold by Plaintiff to defendant where no fixed Period of credit is agreed upon. The Suit is to be filed within 3 years from date of Sale.

వివరణ

చెట్లను, నిలువుననన్యం అరువుపై అమ్మితే సదరు సొమ్ము వసూలుకై దావా చేయుటకు గడువు 3 సం॥లు.

Description of Suits	Period of Limitation	Time from which Period begins to run
18. For the price of work done by plaintiff for the defendant at his request, where no time has been fixed for payment.	Three years	When the work is done.

COMMENTARY

This Article refers to the Suit to be filed by the Plaintiff for the recovery of Price of work done by the Plaintiff for the defendant at his request is 3 Years time begins to run when the work is done, Where no Period is fixed.

A Suit by I.T. & Sales Tax Practitioners Advocates to recover fees from clients falls in this Article. It is essential that work to be done at the request of defendant.

వివరణ

ప్రతివాది కోరికపై వాది ఏదైనా వర్క్ చేస్తే దాని - కిమ్మత్తు (ఫీజు) వసూలుకు గడువు 3 సం॥లు.

Description of Suits	Period of Limitation	Time from which Period begins to run
19. For money payable for money lent.	Three years	When the loan is made.

COMMENTARY

For recovery of money payable for money lent the Suit is to be filed within 3 Years from the date on which money is Lent¹.

వివరణ

ఇచ్చిన అప్పు వసూలుకు అప్పు ఇచ్చిన తేదీ నుండి 3 సం॥లోగా దావా దాఖలు చేయవలెను.

1. Manmohan Das vs Daldo Narain, AIR 1938 PC 66, Sangaril vs Murugesu, AIR 1964 Madras 77

Description of Suits	Period of Limitation	Time from which Period begins to run
20. Like suit when the lender has given a cheque for the money.	Three years	When the cheque is paid.

COMMENTARY

Where the amount is lent by Cheque to recover the Amount, the Suit has got to be filed within 3 Years from the date when the Cheque is en cashed.

వివరణ

చెక్కు ద్వారా సొమ్ము అప్పు యిస్తే, సొమ్ము వసూలుకై దావా చెక్ Cash అయిన 3 సం॥లోగా దాఖలు చేయవలెను.

Description of Suits	Period of Limitation	Time from which Period begins to run
21. For money lent under an agreement that it shall be payable on demand.	Three years	When the loan is made.

COMMENTARY

This relates to Suits to be filed for recovery of Money lent and Agreed to be repaid when demand is made. The time within which Suit is to be filed is 3 Years from the date when Loan is made.

వివరణ

అడిగిన వెంటనే అప్పు తీర్చుటకు ఒప్పుకొన్న పార్టీ నుండి సొమ్ము వసూలు చేయుటకు గడువు అప్పుయిచ్చిన తేదీ నుండి 3 సం॥లు.

Description of Suits	Period of Limitation	Time from which Period begins to run
22. For money deposited under an agreement that it shall be payable on demand including money of a customer in the hands of his banker so payable.	Three years	When the demand is made.

COMMENTARY

This article deals with Amounts deposited and Payable on demand, it may be noted that it was not a loan that was advanced.

The word deposit means where one man places money in the hands of another on the term an equivalent amount has to be Paid on demand. The Period of 3 Years to file the Suit begins to run from the date when demand was made. The word Banker includes a trader who Acts as a Banker.

Deposit of Money is something Morthan loan of Money. facts, relationship, Character of Transaction will throw light on the form of transaction¹.

Understanding to Pay sum will not change Deposit into Loan Transaction.

The question does not depend on terms of documents. it should be Judged from intention of Parties and Circumstances of the case².

Agreement to Pay on demand need not be express, it may be implied³.

Article 22 has not application where Money Payable is at the expiry of fixed Period. Cause of action arises on expiry of fixed Period⁴.

Demand for Payment must be one for the whole sum and it must be unqualified one⁵.

Demand must be made directly on depository. If no Prior demand is made Period of Limitation would not Commence Suit would be in time⁶.

1. AIR 71, S.C. 2551.

3. AIR 1956, S.C. 12.

5. AIR 71, S.C. 2551.

2. AIR 1956, S.C. 12.

4. AIR 1958, S.C. 437.

6. AIR 1956, S.C. 12.

Description of Suits	Period of Limitation	Time from which Period begins to run
23. For money payable by the Plaintiff for money paid for the defendant.	Three years	When the money is paid.

COMMENTARY

This Article refers to filing of Suits by Plaintiff to recover the Amount due from the defendant as the Amount was Paid to a Third Party by Plaintiff on behalf of the defendant. Time fixed is 3 Years to recover the Said Amount.

Suit for Contribution from co-debtor fall within this Article.

వివరణ

ప్రతివాది తరపున వాది చెల్లించిన సొమ్ము వసూలు చేసికొనుటకు గడువు 3 సం॥లు.

Description of Suits	Period of Limitation	Time from which Period begins to run
24. For money payable by defendant to the Plaintiff for money received by the defendant, for the Plaintiff's use.	Three years	When the money is received.

COMMENTARY

This Article is based on an implied Contract, It speaks of a Suit for Money received by the defendant for Plaintiff's use hence the Suit recover such Amount is 3 Years when the Money is received by defendant. Where the defendant occupies a trustworthy relationship this article is not Applicable¹.

Money Claimed by Bailee from bailor under various heads, transactions cannot be split for applying bar of Limitation².

From the moment of receipt of Money by the Defendant, the Plaintiff has right to claim money³.

1. Venkata Subba Rao vs State of A.P., AIR 1965 SC 1773

2. AIR 1966, S.C. 275.

3. AIR 1965, S.C. 1773.

వివరణ

వాది ఉపయోగం నిమిత్తమే ప్రతివాదికి అందించబడిన సొమ్ము వసూలు చేసికొనుటకు దావా చేయుటకు గడువు మూడేళ్ళు. ఎక్కువగా వసూలు చేసిన పన్ను విషయంలో ఇది వర్తించును.

Description of Suits	Period of Limitation	Time from which Period begins to run
25. For money payable for interest upon money due from the defendant to the plaintiff.	Three years	When the interest becomes due.

COMMENTARY

This is a creature of Contract between parties where a person pays certain amount to defendant and agreed to receive interest at periodical intervals, to file a suit to recover interest above time for such Suit is 3 Years from the date when interest became payable.

Where interest is a mere accessory to the Principal and where remedy against Principal is barred, then the remedy against interest is also barred¹.

వివరణ

ప్రతివాదికి కొంత సొమ్ము బదులిచ్చి అందుపై వడ్డీని ఆయా నిర్ణీత సమయాల్లో తీసికొనేవాది సదరు వడ్డీ వసూలు చేయుటకు దావా చేయుటకు గడువు 3 ఏళ్ళు. వడ్డీ ఈయవలసిన తేదీ నుండి 3 ఏళ్ళు లెక్కించాలి.

అయితే - అసలు సొమ్ముకు వడ్డీ అనుబంధం (accessory) అయితే అసలు సొమ్ము వసూలు చేయుటకు కాలదోషం పట్టితే వడ్డీ వసూలు చేయుటకు కాలదోషమే. పార్టీల మధ్య కుదుర్చుకున్న Contract పై ఆధారపడి ఉంటుందని తెలుసుకోవాలి.

Description of Suits	Period of Limitation	Time from which Period begins to run
26. For money payable to the Plaintiff for money found to be due from the defendant to the plaintiff on accounts stated between them.	Three Years	When the Accounts are stated in writing, signed by the defendant or his agent duly authorised in this behalf unless where debt is by a simultaneous agreement in writing signed as aforesaid made payable at a future time and then when that time arrives.

COMMENTARY

This article has reference to the Suits to be filed on "Accounts stated" popularly known as balance due on a khata after giving credits to amounts payable and striking the balance and after arriving at such balance the debtor or his agent shall sign the Khata to file a suit to recover the amount due on such balance the time allowed is 3 years from date when such account is stated.

In Chitti's Treatise on contracts it is stated as follows, where there is an admission by one party against whom another has a money claim that there is a balance due from him to the other then arises from such admission a quasi contract which affords a distinct cause of action to pay the balance on request as upon "account stated" an admission is essential.

An admission of the balance implies a promise in Law to pay it¹.

Supreme court observed as follows : The legal position is that the accounts are settled or stated if they are submitted and accepted as correct by the other side to whom the accounts have been rendered, such a statement of accounts need not be in writing nor is it necessary that before the accounts are settled they should be gone into by the parties and scrutinized and supported by vouchers. It is sufficient if the accounts are accepted and such acceptance may be inferred by conduct of parties.

It is clear that the article applies when "Money found due" is a definite sum. An account stated may only take the form of a mere acknowledgement².

1. Gordon Woodroffee & Co vs M.A. Majid & Co., AIR 1967 SC 181 2. AIR 1934 PC 144

Accounts stated means claim to Payment made by one admitted by the other to be correct i.e. acknowledgement of Liability. A Promise to Pay such promise not supported by Consideration Accounts Acceptance need not be in writing accounts can be inferred from conduct¹.

వివరణ

ఇద్దరు ఆస్కామీలతో ఒకరు మరియొకరికి ఖాతా account ప్రకారం బాకీని తేల్చి - మరియొకరికి ఈయవలసిన సొమ్ము తేల్చి - అందుపై తానుగాని తనచే అధికారం పొందిన ఏజెంటుగాని సంతకం చేస్తే - ఆ ప్రకారం Arrive కాబడిన బాకీని account stated అంటారు. ఆ సొమ్ము వసూలు చేసికొనుటకు దావా దాఖలు చేయుటకు account చెప్పిన తేదీలగాయతు మూడు సంవత్సరములు గడువు.

Account between Banker and customer falls under this article. The relationship is one of creditor and debtor - The Banker being debtor when the account is credit and creditor when the account is overdrawn.

Description of Suits	Period of Limitation	Time from which Period begins to run
27. For compensation for breach of a promise to do anything at a specified time, or upon the happening of a specified contingency.	Three years	When the time specified arrives or the contingency happens.

COMMENTARY

A Suit for compensation on a forward contract to be performed at a future date for giving or taking delivery or paying differences on future date would be governed by this article. Limitation to file a suit would run from the date specified for performance of the contract. This article does not contemplate a written contract.

A thing can be specified either by an oral contract or a written one.

Mostly this article applies to forward trading in cotton ground nut and oil seeds contracts. Normally in the contract time would be specified or when the crop is ready for cutting. In either case time begins to run from the date fixed or specified or when the contingency happens.

వివరణ

భవిష్యత్తులో చేతికి అందగల పంటలు - ప్రత్తి, ప్రత్తి గింజలు, వేరు శనగ, నూనె గింజలు మొదలగు వాటి విక్రయానికి సంబంధించిన కాంట్రాక్టులకు సంబంధించినది ఈ ఆర్టికల్. అనుకున్న ప్రకారం జరిగించ లేకపోయినందుకు నష్టపరిహారం వసూలు చేయుటకు దావా చేస్తే అది 3 సంవత్సరాలలోగా చెయ్యాలి. ఉభయులు నిర్ణయించుకొనిన గడువుతేదీ నుండిగాని, లేదా ఏది సంభవించాలని అనుకుంటారో అది సంభవించిన నాటి నుండి గాని 3 ఏళ్ళు గడువు లెక్కించాలి. మూడేళ్ళు దాటితే దావాకు కాలదోషం పట్టుతుంది.

Description of Suits	Period of Limitation	Time from which Period begins to run
28. On a single bond, where a day is specified for payment.	Three years	The day so specified.

COMMENTARY

In Halsbury's Laws of England "Bond is defined as 'a bond merely for the payment of a certain sum of money without any condition in or annexed to it is called a simple or single bond'".

Where in the Suit bond there was a stipulation that the debtor would repay the loan in 12 months, limitation begins to run from the day so specified and not from the date of the Bond¹.

Suit for Payment of Amount when date is specified for Payment Limitation runs from the date Specified for Payment².

వివరణ

ఏదేని బాండుపై ఈయబడిన అప్పు రాబట్టుకొనుటకు దావా చేయుటకు గడువు 3 ఏళ్ళు.

Description of Suits	Period of Limitation	Time from which Period begins to run
29. On a single bond, where no such day is specified.	Three years	The date of executing the bond.

COMMENTARY

Where no specified date is provided in the Bond the time to file a suit to recover the amount is 3 Years from the date of execution of the Bond.

A deed of agreement containing an obligation to pay money as penalty for breach of Covenant is not a Bond as such this article has no application¹.

Repeal portuguese civil code is deemed to have been expressly repealed by Limitation Act 1963².

వివరణ

ఏదేని Bond పై ఇచ్చిన రుణమును తిరిగి యిచ్చుటకు తేదీ గడువు నిర్ణయించని యెడల - సదరు Bond పై రావలసిన సొమ్ము వసూలు చేసి కొనుటకు దావా చేయుటకు గడువు - సదరు Bond వ్రాసిన నాటినుండి 3 ఏళ్లు.

ఏదేని Contract లో సదరు Bond యొక్క సొమ్మును Contract లోని షరతు ఉల్లంఘించినందుకు Penalty గా ఇచ్చేదనంటే అది Bond అవదు. ఈ Article వర్తించదని అలహాబాద్ హైకోర్టు తీర్పు చెప్పినది.

1. Mahadin Prasad vs Peer bux, AIR 1972 All 460 (FB).

2. AIR 2001 SC 1968.

Description of Suits	Period of Limitation	Time from which Period begins to run
30. On a bond subject to a condition.	Three years	When the condition is broken.

COMMENTARY

This article has been interpreted as applying to the bonds of the nature of security Bonds where the executant is liable to make a payment on breach of the condition and not otherwise liable under the Bond period of Limitation is three Years from the date of breach.

వివరణ

ఏదేని కండిషన్తో కూడిన బాండ్పై దావా చేయుటకు గడువు సదరు కండిషన్ Break చేసినది లగాయదు 3 ఏళ్ళు.

Description of Suits	Period of Limitation	Time from which Period begins to run
31. On a bill of exchange or promissory note payable at a fixed time after date.	Three years	When the bill or note due.

COMMENTARY

This article corresponds to article 69 of the repeal Act. This article has reference to Suits based on Bill of Exchange of Promissory note payable at a fixed time after date. The Suit must be based on Bill of Exchange or Promissory Note.

Bill of Exchange includes a hundi and a cheque. Look into the definition 2(C) of This New Limitation Act.

Promissory note see definition or Section 2 (K) of This Act.

వివరణ

ఏదేని Bill of Exchange పైగాని కాలనిర్ణయంతో కూడిన ప్రామిసరీ నోటుపైగాని సామ్మూ రాబట్టు కొనుటకు దావా చేయుటకు గడువు 3 సంవత్సరాలు. Bill of Exchange, ప్రోనోటు కూడా ఈ Act సెక్షను 2 లో నిర్వచించబడినాయి. హుండి చెక్కు కూడా ఈ నిర్వచనం క్రిందకే వస్తాయి.

Description of Suits	Period of Limitation	Time from which Period begins to run
32. On a bill of exchange payable at sight or after sight, but not at a fixed time.	Three years	When the bill is presented.

COMMENTARY

Bill of Exchange includes a Hundi and Cheque. See the definition in Section 2 of This Act. According to Sec 21 of the negotiable Instruments Act "at sight" means on demand see sec 21 of that Act. hence it is a Bill payable on demand, According to Negotiable Instruments Act Section 21 "after Sight in a Bill of Exchange means" after acceptance" of noting for non-acceptance or "Protest for non acceptance".

No cause of action arises unless the Bill is Presented.

Limitation begins to run from the date of Presentation.

వివరణ

ఇది Bill of Exchange కి హుండీలకి సంబంధించినది. వాటిపై దావా చేయుటకు ఆ Instruments ని Present చేసిన తేదీ నుండి 3 సంవత్సరములు అని తెలుసుకోవాలి.

Description of Suits	Period of Limitation	Time from which Period begins to run
33. On a bill of exchange accepted at a particular place.	Three years	When the bill is presented at that place.

COMMENTARY

This article relates to Suits based on Bill of Exchange accepted and made payable at a particular place. The emphasis is on the place. hence the Bill has got to be presented at the specified place. See section 69 of the Negotiable Instruments Act.

Cause of action begins to run when the Bill is presented at that place and from that date the time for Filing a suit is 3 Years.

వివరణ

ఏదేని నిర్ణీత స్థలములోనే Bill pay చేయుదుమని పేర్కొన్న యెడల ఆ

స్థలములోనే Present చెయ్యాలి. అప్పటినుండి దావా చేయుటకు గడువు 3 ఏళ్ళు. ఈ సందర్భమున Negotiable Instruments Act లోని 6, 21, 69 సెక్షన్లను చదువకోరుచున్నాము.

Description of Suits	Period of Limitation	Time from which Period begins to run
34. On a bill of exchange or promissory note payable at a fixed time, after sight or after demand.	Three years	When the fixed time expires.

COMMENTARY

This relates to suits to be filed on the basis of a Bill of Exchange or a pronote payable after a fixed time after sight or after demand.

Bill of Exchange includes a Hundi and a Cheque.

Promissory note means any instrument whereby the maker agrees absolutely to pay a specified sum of money to another at a time therein limited as on demand or at Sight after Sight means in a promissory note after presentment for Sight, Limitation begins to run when the fixed time expires.

వివరణ

ప్రోనోటు బాకీ, బిల్ షై రావలసిన సొమ్ము నిర్ణీతమైన గడువులోగా ఈయని యెడల ఆ గడువు దాటిన 3 ఏళ్ళలో ఆ సొమ్ము రాబట్టుటకు దావా చెయ్యాలి.

Description of Suits	Period of Limitation	Time from which Period begins to run
35. On a bill of exchange promissory note payable on demand and not accompanied by any writing restraining or postponing the right to use.	Three years	The date of the bill or note.

COMMENTARY

To file a suit on the basis of a pronote or a bill which do not contain any writing restraining filing of a suit time fixed is three Years.

Promissory note is defined under section 4 of the Negotiable Instruments Act. The words "on demand in a promissory note means payable immediately".

Suit for Recovery of Money : Suit filed for Recovery of Money, Suit seeking direction for Sale of Mortgaged in default of Payment of Money is a Suit for Money - Period of Limitation for filing such suit is only 3 years¹.

వివరణ

ప్రోనోటుపైన బిల్లుపైన బాకీ విషయం తప్ప దావా చేయుటకు అభ్యంతరాలు, గడువులు మొదలైన వ్రాతమూలకాలు ఏవీలేని యెడల - అందుపై సామ్మూరబట్టుటకు దావా చేయుటకు గడువు మూడేళ్ళు. బిల్లుపైన ప్రోనోటుపైన వ్రాయబడిన తేదీనుండి గడువు 3 ఏళ్ళు లెక్కించాలి.

Description of Suits	Period of Limitation	Time from which Period begins to run
36. On a promissory note or bond payable by Instalments.	Three years	The expiration of the first term of payment as the part then payable and for the other parts the expiration of the respective terms of payment.

COMMENTARY

This article applies to debts contracted on promissory note or bond and are agreed to be discharged in instalments. It governs the suits for recovery or amount due on instalments but not for the whole amount. If the suit is for the whole amount the next article, article 37 would govern².

To recover money on mortgage suits, the date on which first instalment fell due would be relevant³.

Suit Based on Hundi; Limitation starts from the date mentioned in Hundi and not from date of its delivery⁴.

1. A.D. saradharami Reddi vs Indian bank, 99(6) ALT 103.

2. Subbanna vs Venkanna, AIR 1950 Mad 749.

3. AIR 1978 MP. Page 73.

4. 1967, S.C. 1118.

వివరణ

ప్రామిసరీనోటు లేదా బాండ్ పై ఈయబడిన బాకీ వాయిదాల ప్రకారం తీర్చుటకు నిర్ణయింపబడితే ఏయే వాయిదాలు default కాబడినవో సామ్మూ ఈయలేద్ అయీ తేదీల నుండి మూడు సంవత్సరములలోగా వసూలు నిమిత్తం దావా చెయ్యాలి. తనఖా బాకీ విషయంలో అయితే మొదటి వాయిదా తేదీ నుండి లెక్క చూడాలి. అంతేగాని తనఖా పత్రం వ్రాసిన తేదీ కాదు.

Description of Suits	Period of Limitation	Time from which Period begins to run
37. On a promissory note or bond payable by instalments which provides that, if default be made payment of one or more instalments the whole shall be due.	Three years	When the default is made unless where the payee or obligee waives the benefit of the provision and then when fresh default is made in respect of which there is no such waiver.

COMMENTARY

This article applies for filing suits to recover amounts advanced on promissory note or bond payable by instalment which contain a clause where there is default in payment of one instalment the whole balance becomes due. Limitation starts from the date when default is committed, If there is "Waiver the period of limitation would be three years from the date with effect from the default on the basis or which Creditor claims to recover the entire debt.

"Waiver" is a voluntary and intentional relinquishment or abandonment of a known Existing legal right, advantage of benefit, claim or privilege which except for such waiver the party would have enjoyed, waiver may be express or implied.

Partnership - Limitation for Period of Accounts: Suit for Accounts and share in Partnership should be filed in 3 years from the alleged date of disssolution of firm¹.

1. N. Kamalanba vs M. Ramaiah, 92 (3) ALT 673.

Pronote, Bond - Payment of Amount : In Instalments, Suit should be filed in 3 years when the 1st instalment is due and was not Paid. The Suit is held time Barred¹.

Bank Loans : Suit by Bank for Recovery of Loan Amount. Time limit is 3 years².

వివరణ

ఏదేని ప్రామీసరీనోటుపైగాని, బాండ్పైగాని ఈయవలసిన బాకీ వాయిదాల పద్ధతిని తీర్చుటకు అంగీకరింపబడి ఏ ఒక్కవాయిదాగుజస్తు (default) అయిననురాగల వాయిదాలతో నిమిత్తం లేకుండా అప్పటికి బాకీయున్న సొమ్ము అంతా వసూలు చేయుటకు గుజుస్తు అయిన వాయిదా నుండి 3 ఏళ్ళు కాలపరిమితి అని తెలుసుకోవాలి. అయితే ఎవరైనా ఋణదాత (Creditor) వాయిదాలపై రాబట్టుకొనే హక్కును బుద్ధిపూర్వకంగా వదులుకుంటే (Waive చేస్తే) ఆఖరి వాయిదా నుండి 3 ఏళ్ళు లోపుగా మొత్తం సొమ్ము అంతా రాబట్టుకొనుటకు దావా చెయ్యాలి.

Description of Suits	Period of Limitation	Time from which Period begins to run
38. On a promissory note given by the maker to a third person to be delivered to the payee after a certain event should happen.	Three years	The date of the delivery to the payee.

COMMENTARY

This relates to a case where the maker or the promissory note (Executant) hands over it to a third person to be delivered to the payee (receptient of money) after a certain event to happen. The period of limitation starts from date when the promissory note was delivered to the payee. The time limited is three years from the date of delivery.

వివరణ

ఎవరైనా ఒక ఆసామీ ప్రామీసరీ నోటు వ్రాయించి - అందుపై సొమ్ము ముట్టవలసిన ఆసామీకి కాక మరియొక Third party చేతికిచ్చి తానుచెప్పిన event (అవాంతరం) సంభవిస్తే ఆ Payee కి ఆ నోటు ఇచ్చివేయవలెనని అంటే - ప్రామీసరీ సొమ్ము రాబట్టుకొనుటకు ఆ నోటు Payee కి deliver చేయబడిన రోజునుండి మూడేళ్ళలో దావా చెయ్యాలి - నోటు తేదీ కాదు.

Description of Suits	Period of Limitation	Time from which Period begins to run
39. On a dishonoured foreign bill where protest has been made and notice given.	Three years	When the notice is given.

COMMENTARY

This relates to a suit to be filed on the basis of a dishonoured foreign Bill where protest has been made and notice given. Inland instruments are defined in Sec 11 of Negotiable Instruments Act and in Section 12 of The Act foreign Instrument is defined.

Sec 11 : A promissory note Bill of Exchange or Cheque drawn or made in India and made payable or drawn upon any person resident of India shall be deemed to be an Inland Instrument.

Sec 12 : Any such instrument not so drawn made or made payable shall be deemed to be a foreign instruments.

Sec 104 of Negotiable Instruments Act say that Foreign Bills of Exchange must be protested for dishonour when such protest is required by law of the place where they are drawn of the place where they are drawn.

Where promissory note or Bill of Exchange is required by Law to be protested notice of such protest must be given Notice may be given by the Notary who makes the protest Limitation in such cases begins to run from the date of Notice - It is 3 years.

వివరణ

ఇది విదేశీ Bills కి ప్రోటెస్ట్ కి సంబంధించిన article అటువంటి విదేశీ Instruments పై Protest (అభ్యంతరం) వ్రాస్తే - సదరు అభ్యంతరాన్ని Notice ద్వారా తెలియజేయాలి. ఆ విధమైన Notice ఈయబడిన తేదీ నుండి దావా చేయుటకు గడువు 3 ఏళ్ళు అని తెలుసుకోవాలి.

Description of Suits	Period of Limitation	Time from which Period begins to run
40. By the payee against the drawer of a bill of exchange, which has been dishonoured by nonacceptance.	Three years	The date of the refusal to accept.

COMMENTARY

This should be read with Section 7 of Negotiable Instruments Act. Section 7 of Parrent Act defines "Drawer" as "The maker of a Bill of Exchange or Cheque is called the Drawer".

Sec 7 defines "Payee" as follows : The person named in Instrument to a whom or to where order the money is directed to be paid is called the payee".

Dishonoured by Non-acceptance means "A Bill of Exchange is said to be dishonoured by Non-acceptance when the drawee makes default in Non-acceptance upon duly being required to accept the Bill".

Time begins to run from the date of refusal to accept and suit should be filed with in 3 years from such refusal.

వివరణ

తనకు సొమ్ము రావలసిన అసామీ (Payee) తాను పంపిన Bill dishonour కావడంతో అందుపై సొమ్ము రాబట్టుకొనుటకు దావా చేయుటకు dishonour చేసిన తేదీ లగాయతు 3 సంవత్సరాలు.

Accept చేయుటకు నిరాకరించిన తేదీ లగాయతు 3 ఏళ్ళు అని తెలుసుకోవాలి.

Description of Suits	Period of Limitation	Time from which Period begins to run
41. By the acceptor of an accommodation bill against the drawer.	Three years	When the acceptor pays the amount of the Bill.

COMMENTARY

For filing a suit by the acceptor of an accommodation Bill against the Drawer time limited is three years from the date when the acceptor pay the Bill.

వివరణ

ఆర్థిక సహాయం చేయుటకు ఈయబడిన Bill పై Payment చేసిన మూడు సంవత్సరములలోగా Drawer పై దావా చెయ్యాలి లేకపోతే కాలదోషం పట్టుతుంది.

Description of Suits	Period of Limitation	Time from which Period begins to run
42. By a surety against the principal debtor.	Three years	When the surety pays creditor.

COMMENTARY

This relates to Suits to be filed by surities against principal debtor.

This article contemplates filing of a suit by the surity against the principal debtor whose debt the surity was oblige to discharge.

The defendant is the Principal debtor and Surety is the Plaintiff.

Cause of action arises from the date when the Creditor or the Defendant was paid. Time limit is Three Years.

వివరణ

జామిన్దారు ఎవరి బాకీ తాను తీర్చేనో (Principal debtor) అట్టి అసామీపై దావా చేసి తన సొమ్ము రాబట్టుకొనుటకు గడువు 3 ఏళ్ళు. ఎప్పటి నుండి అనగా అసలు బాకీదారు ఈయవలసిన సొమ్ము జామిన్దారు Creditor కి ఎప్పుడు ఇచ్చేనో ఆ తేదీ లగాయతు అని తెలుసుకోవాలి.

Description of Suits	Period of Limitation	Time from which Period begins to run
43. By one surety against co-surety.	Three years	When the surety pays anything in excess of his own share.

COMMENTARY

This article provides three years time for a surety to recover the amount paid by him in excess of his share to the creditor.

What gives cause of action to file a suit is the excess payment.

వివరణ

ఒక జామీనుదారుడు తాను చెల్లించవలసిన వాటా సొమ్ము కంటే ఎక్కువ చెల్లించితే - ఆ విధంగా చెల్లించబడిన ఎక్కువ సొమ్మును సహజామీన్ దారుడు నుండి దావా చేసి రాబట్టుకొనుటకు గడువు 3 సంవత్సరాలు. తన వాటాకు మించి ఎక్కువ సొమ్ము చెల్లించిన తేదీ నుండి కాలగమనం లెక్కించాలి.

Description of Suits	Period of Limitation	Time from which Period begins to run
44. (a) On a policy of insurance when the sum insured is payable after proof of the death has been given to or received by the insurers.	Three years	The date of the death of the deceased, or where the claim on the policy is denied, either partly or wholly, the date of such denial.
(b) On a policy of Insurance when the sum assured is payable after proof of the loss has been given to or received by the insurers.		The date of the occurrence causing the loss, of where the claim on the policy is denied either partly or wholly, the date of such denial.

COMMENTARY

This article deals with filing of suits for recovery of amounts due on the policy of Insurance and also general Insurance.

Time begins to run in the case of life Insurance when the proof of death of the person is given to the Insurance company or from the date when the Insurance company denies the claim wholly or in part. The time fixed is 3 Years.

In the case of general Insurance time begins to run from the date when proof of loss has been given to the Insurance company or when the claim is denied in whole or in part, In either case the time given to file the suit is 3 years.

Insurance Amount : Destruction of Insured Factory Claim amount refused by Insurance Co. Suit filed within 12 months of refusal for claim amount in Valid'.

వివరణ

Insurance సామ్ము వసూలు చేసికొనుటకు గడువు 3 ఏళ్ళు. జీవిత భీమా (Life Insurance) విషయంలో ఎవరి Life Insure చేయబడినదో ఆ వ్యక్తి మరణానికి సంబంధించిన రుజువు దాఖలు చేసినప్పటి నుండిగాని లేదా Insure చేయబడిన సామ్ము అంతయుగాని, ఏ కొంతగాని తాము ఈయనవసరం లేదని చెప్పిన తేదీ నుండి గాని 3 సంవత్సరాలలో సామ్ము రాబట్టుకొనుటకు దావా చెయ్యాలి.

అటులనే General Insurance విషయంలో నష్టం కలిగినట్లు రుజువు చేసిన తేదీ నుండి గాని, Claim సామ్ము పూర్తిగాగాని, ఏ కొంతగాని ఈయనవసరం లేదని Insurance Company తెలియజేసిన వాటి నుండిగాని సామ్ము రాబట్టుకొనుటకు 3 ఏళ్ళలోగా దావా చెయ్యాలి.

Description of Suits	Period of Limitation	Time from which Period begins to run
45. By the assured to recover premia paid under a policy voidable at the election of the insurers.	Three years	When the insurers elect to avoid the policy.

COMMENTARY

This article relates to a suit by the assured to recover premia paid under a Policy voidable at the election or the insurers.

When the assured Insures his life or goods and pay premiums (Premia) to the Insurance Company and finds that the contract is void. Under such circumstances to get refund of the ammount the suit should be filed within three years from the date the Insurer elects to avoid the policy.

వివరణ

Insure చేసిన అసామీ తాను కట్టిన ప్రీమియం సొమ్ములు refund పొందుటకు - ఏలనన ఇద్దరి మధ్య జరిగిన Contract చెల్లనేరనందున మూడేళ్ళలో దావా చెయ్యాలి. పాలసీని నిరాకరించిన తేదీ నుండి 3 ఏళ్ళలోగా దావా చెయ్యాలి.

Description of Suits	Period of Limitation	Time from which Period begins to run
46. Under the Indian succession Act, 1925 Sec. 360 or Sec. 361 to compel a refund by a person to whom executor or administrator has paid a legacy or distributed assets.	Three Years	The date of the payment or distribution.

COMMENTARY**SECTION 360 OF INDIAN SUCCESSION ACT READS AS FOLLOWS:**

Section 360 Indian Succession Act : Where an executor or administrator has given such notice as the High court may by any general rule prescribe or if no such rule has been made, as the high court would give in an administration suit, for creditors and others to send in to him their claims against the estate of the deceased, he shall at the expiration of the time therein named for sending in claims, be at liberty to distribute the assets or any part thereof, in discharge of such lawful claims as he knows of, and shall not be liable for the assets so distributed to any person of whose claim he shall not have had notice at the time of such distribution.

Provided that nothing herein contained shall prejudice the right of any creditor or claimant to follow the assets or any part thereof, in the hands of the persons who may have received the same respectively.

SECTION 361 : A creditor who has not received payment of his debt may call upon a legatee who has received payment of his legacy to refund. whether the assets of the testator's estate were or were not sufficient at the time of his death to pay both debts and legacies; and whether the payment of the legacy by the executor or administrator was voluntary or not;

It may be seen that executors or administrators are appointed by

court under a will or to distribute the assets of a deceased person. If the Executor or administrator pays to any person more than the amount due to him - to recover the excess amount or asset can be recovered by filing a suit. To file such a suit period of Limitation is three years.

వివరణ

ఎవరైనా ఆస్తిని తనకు రావలసిన సొమ్ము లేదా అస్తి కంటే ఎక్కువ సొమ్ము లేదా అస్తి Executor చేతనో ఈయబడితే - ఆ విధంగా ఈయబడిన ఎక్కువ సొమ్ము లేదా అస్తిని తిరిగి రాబట్టుకొనుటకు వానిపై దావా చేయుటకు గడువు మూడేళ్ళు.

Description of Suits	Period of Limitation	Time from which Period begins to run
47. For money paid upon an existing consideration which afterwards fails.	Three years	The date of the failure.

COMMENTARY

The suit to be filed should be to recover money only. It should have been paid on an existing consideration. Time begins to run from the date when the consideration fails. Suit to recover Security deposits, earnest money would come under this article. In cases of Frustration of contracts also this article applies¹.

Even when there is a partial failure of consideration this article applies².

వివరణ

ఏదేని Contract నిమిత్తం ఈయబడిన ప్రతిఫలం దర్మిలా చెడిపోయినచో (Failure of Consideration) Contract నిమిత్తం ఈయబడిన సొమ్ము తిరిగి రాబట్టుకొనుటకు దావా చేయుటకు గడువు 3 ఏళ్ళు. ప్రతిఫలం చెడిపోయిన తేదీ లగాయతు 3 ఏళ్ళు తెక్కించాలి.

కొనుగోలు వ్యవహారాల్లో ఈయబడిన బయానాలు - సెక్యూరిటీ డిపోజిట్లు, గ్యారంటీలు నిమిత్తం ఈయబడిన సొమ్ము తిరిగి రాబట్టు కొనుటకు దాఖలు చేయు దావాలకు గడువు 3 ఏళ్ళుగా నిర్ణయించబడినది.

1. *Sinshri vs Lakshman Singh*, AIR 1959 M P page 315, *Ramala Bhaga vs Municipal Committee, Amritsar*, AIR 1966 Punj page 460,
2. ILR 24 mad Page 27

Description of Suits	Period of Limitation	Time from which Period begins to run
48. For contribution by a party who has paid the whole or more than his share of the amount due under a joint decree, or by sharer in a joint estate who has paid the whole or more than his share of the amount to revenue due from himself and his co-sharers.	Three Years	The date of the payment in excess of the plaintiffs own share.

COMMENTARY

This article applies where a person who pays more amount than due under a Joint Decree. Suit is styled as suit for contribution. The second type of suit is where a person more revenue on the estate than what is payable by him.

In both cases the Suit has to be filed within 3 years from the date when plaintiff pay excess amount.

వివరణ

ఏదేని జాయింటు డిక్రీ బాకీ క్రింద ఒక ఆసామీ అయినా తన వాటా సొమ్ము కంటే ఎక్కువ చెల్లించిన యెడల ఆ అదనముగా చెల్లించబడిన సొమ్ము రాబట్టు కొనుటకు దావా చేయుటకు మూడేళ్ళు గడువు. తన వాటాకు మించి అదనముగ సొమ్ము చెల్లించిన తేదీ నుండి కాల నిర్ణయాన్ని లెక్కించాలి.

Description of Suits	Period of Limitation	Time from which Period begins to run
49. By a co-trustee to enforce against the estate of a deceased trustee a claim for contribution.	Three Years	When the right to contribution accrues.

COMMENTARY

This article speaks about contribution from the estate of a deceased Co-Trustee the amount due to the estate and which has been paid by him. This is also a suit for contribution but the nature or suit is different from what is contemplated under article 48 supra.

The Period to file the Suit to recover the amount is three years.

వివరణ

ఎవరైనా ఒక ట్రస్టీ - మరణించిన మరియుక సహ ట్రస్టీ ఆస్తి నుండి తనచే చెల్లించబడిన (ట్రస్టు ఆస్తికి సంబంధించిన) అదనపు సొమ్ము రాబట్టుకొనుటకు దావా చేయుటకు గడువు మూడు సంవత్సరములుగా నిర్ణయించబడినది. మరణించిన ట్రస్టీ ఆస్తిపై దావా చేయుటకు అని గ్రహించాలి.

Description of Suits	Period of Limitation	Time from which Period begins to run
50. By the manager of joint estate of an undivided "family for contribution, in respect of a payment made by him on account of the estate.	Three years	The date of the payment.

COMMENTARY

This article applies in case a manager undivided family making payment on behalf of the family and to recover the amount due from the estate. This is also a contribution suit. Time for filing the Suit is 3 years from the date of payment.

వివరణ

ఏదేని అవిభక్త కుటుంబ మేనేజరు - కుటుంబాస్తికి సంబంధించిన బాకీ - అప్పు మొదలగునవి తీర్చిన యెడల సదరు బాకీ సొమ్ము తిరిగి పొందుటకు దావా చేయుటకు గడువు - బాకీ తీర్చిన తేదీ నుండి 3 సంవత్సరములని తెలియదగును.

Description of Suits	Period of Limitation	Time from which Period begins to run
51. For the profits of immovable property belonging to the plaintiff which have been wrongfully received by the defendant.	Three years	When the profits are received.

COMMENTARY

To attract this article the immovable property should belong to plaintiff and the defendant should have received profits from such property and wrongfully. "Mense Profits" come under this article Section 2(12) or The C.P. Code defines "Mense Profits" as follows :-

"Mense Profits of Property means the profits which the person in wrongful possessoin of such property acutally received or which might ordinary diligence have received therefrom together with interest on such profits"

Plaintiff can file a suit for profits received by Defendant 3 years prior to filing of the Suit¹.

A Suit by an auction Perchaser for mense Profits is not Governed by this article, but residuary article 113 would apply².

An application for restitution under Sec 144 C P code is an application for execution of a decree and hence this article is not applicable³.

వివరణ

వాదియొక్క స్థిరాస్తి నుండి ప్రతివాది పొందిన అక్రమ ఫలసాయం రాబట్టుకొనుటకు దావా చేయుటకు గడువు 3 ఏళ్ళు. ప్రతివాది అక్రమంగా పొందిన ఫలసాయం రాబట్టుటకే 3 సంవత్సరములు గడువు.

1. Kumanappa vs Hanumanthappa, AIR 1962 AP Page 152.

2. Venkata Ramanayya vs Singayya, AIR 1967 A.P. Page 78.

3. M.M. Baot vs Patel, AIR 1965, SC Page 1477

Description of Suits	Period of Limitation	Time from which Period begins to run
52. For arrears of rent.	Three years	When the arrears become due.

COMMENTARY

This article corresponds to article 110 of the old repealed Act.

A period of three years is prescribed to file a suit for recovery of rent time begins to run from the date the arears became due the relationship between plaintiff and defendant should be land Lord and Tenant. Further there should be an agreement with regard to quantum of rent payable Section 105 of Transfer of Property Act defines rent. The consideration for enjoyment of immovable property may be money or share of crop, service of any thing of value - is called "Rent"

Lease - Licence - Rent : An Agreement Purporting to create licence executed by Landlord in order to circumvent Rent Laws created - Court - held in to be Monthly Tenancy - Arrears of rent recoverable only for 3 years from date of demand Notices¹.

వివరణ

బకాయిపడిన అద్దె వసూలు చేయుటకు బకాయి పెట్టిన తేదీ నుండి 3 సంవత్సరములలోగా దావా చెయ్యాలి. అద్దె డబ్బురూపంలోగాని, వస్తు రూపం (ధాన్యం - పండ్లు మొదలగునవి)లోగాని ఉండవచ్చును.

1. Kamala Bakshi vs Khairati Lal, AIR 2000, S.C. 1808.

Description of Suits	Period of Limitation	Time from which Period begins to run
53. By a vendor of immovable property for personal payment of unpaid purchase money.	Three years	The time fixed for completing the sale or where the title is accepted after the time fixed for completion the date of the acceptance.

COMMENTARY

Where the seller of immovable property is not paid the consideration of sale money by the purchaser (vendee) the seller is styled as "Vendor of unpaid purchase money". The Rights of an unpaid vendor of purchase money are governed by Section 55 5(b) of the Transfer of property Act. The Seller will have a lien over the property sold for the amount due to him under the sale transaction.

When the vendor sues the vendee for the money due without seeking to enforce the lien this article would apply.

A Suit by a vendor for personal payment of unpaid money..... is governed by this article¹.

వివరణ

స్థిరాస్తిని విక్రయించిన ఆసామీకి క్రయ ప్రతిఫలం అంతాగాని ఏకొంతగాని బాకీ ఉంటే ఆ సొమ్ము రాబట్టుకొనుటకు దావా చేయుటకు మూడేళ్ళు గడువు. క్రయ దస్తావేజులో వ్రాయబడిన అంశములను బట్టి క్రయ ప్రతిఫలం పూర్తిగా ముద్దేవరకు క్రయాస్తియే హామీగా ఉంటే ఈ ఆర్టికల్ వర్తించదు. సొమ్ము రాబట్టుకొనుటకు మాత్రమే ఇది వర్తించును.

Description of Suits	Period of Limitation	Time from which Period begins to run
54. For specific performance of a contract.	Three years	The date fixed for the performance or if no such date is fixed when the plaintiff has notice that performance is refused.

COMMENTARY

This article corresponds to article 113 of the repealed Act.

This article fixed a period of 3 years to file a suit for specific performance of an agreement. Time begins to run from the date fixed for performance or the date on which plaintiff had notice of refusal to perform.

A suit for breach of contract and to recover damages cannot be brought under this article.

A suit for possession of the property without praying for specific performance must fail for want of title to that property¹.

Vendee is in possession under an agreement to sell right to sue for specific performance barred. Nature of possession permissive but not adverse².

A Court is not bound to decree specific performance even it is lawful to do so to grant such a relief³.

The Court may refuse to grant a decree for specific performance if :

Where the terms of contract of conduct of parties at the time of entering into contract that the contract though not voidable give the plaintiff an unfair advantage over the defendant or

Where performance of contract would involve hardship to the defendant which he did not foresee, Whereas non-performance would involve no such hardship on the Plaintiff

Where the defendant enters into the contract makes it inequitable to perform such contract.

1. Gouni Shankar vs Ibrahim Ali, AIR 1929, Mas 298.

2. Shiv Kumar vs Ajad Nuta, AIR 1972, J&K 125 FB.

3. Biswanath Prasad vs Bhagawat Pandey, AIR 1982, Pat - 219

Diverse situations may arise which may induce the Court not to exercise the discretion in favour of the plaintiff - It may better be left undefined - discretion of the Court is not arbitrary but sound and reasonable guided by Sound principles and capable of being corrected by a Court of appeal¹.

Limitation begins from the date when the performance is refused².

Where a time is fixed for performance second part of column 3, Can have no application³.

Specific Performance - Time : Date fixed for the Performance does not require a Particular date from the calendar. In a Suit for Specific Performance redemption of Mortgage is a "happening of Certain event" when the Purchaser redeems Mortgage Period of Limitation starts⁴.

Words in Contract - Meaning : Mere wording in Contract is not to be relied, real intention of Parties in reference to real situation in Contract is to be Considered⁵.

Renewal of Lease - Limitation : Suit filed by Lessee for specific Performance of Renewal of Lease to be made within 3 years of Expiry of Lease⁶.

Renewal of Lease : Suit for specific Performance seeking renewal of Lease filed 3 years after Expiry of Lease - Held barred by Limitation⁷.

Suit by Landlord for Eviction : In a Suit filed by Landlord for eviction, Defendant filed counter claim for enforcing alleged Agreement of Lease - Counter Claim was held time Barred⁸.

Suit for specific performance : Obtaining permission of Land ceiling Authorities is a prerequisite, Notice by vendor to purchaser that contract had frustrated on account of refusal to grant permission by ceiling Authorities, Limitation would start running from service of Notice⁹.

1. Satyanarayana vs Velloji Rao, AIR 1965, SC 1405.

2. B. Krishnamurthy Rao vs E.S. Sakuntalamma, AIR 1999, AP 124.

3. Chekka Venkata Satyanarayana Murthy, vs Appna Veerraju, AIR 1980, AP Page 32.

4. AIR 1990, SC 529.

5. AIR 1986, S.C. 1912 = 86(3) S.C.C. 300.

6. Indian Oil Corporation Ltd vs Kareem Zaheer Yar Jung, 92(2) ALT 689 = 97(3) ALD 675.

7. 97(2) ALT 689 - 97(3) ALD 675.

8. B. Krishna Murthy vs C.S. Sakuntalamma, 1998 (6) ALT 635.

9. Ramachandra woman Subhader vs Rghusis Singh Bhaty, AIR 2002 Allahabad 13.

వివరణ

వ్రాయించియిచ్చిన లేదా ఒప్పుకొనిన ఎగ్రిమెంటును యధాతథంగా అమలు జరిపించుటకు దావా చేయుటకు నిర్ణయింపబడిన గడువు మూడు సంవత్సరాలు. వ్రాత మూలకమైన ఎగ్రిమెంటులో తేదీ నిర్ణయించుకుంటే అంటే ఏ తేదీలోగా దస్తావేజు వ్రాయించి ఈయవలెనో ఆ తేదీ నుండిగాని అట్టి వ్రాతమూలకం ఏదీ లేకపోతే వాదికి ప్రతివాది ఇక దస్తావేజులు వ్రాసి ఇవ్వడు అనే Notice కలిగిన తేదీ నుండిగాని మూడు సంవత్సరాలలోగా దావా చేయవలసి యున్నది. అట్లు చేయలేకపోతే దావాకు కాలదోషం పట్టును.

పైన వ్రాయబడిన తీర్పులు గమనించునది.

Description of Suits	Period of Limitation	Time from which Period begins to run
55. For Compensation for breach of any contract express or implied not herein specially provided for.	Three years	When the contract is broken or (where there are successive breaches) when the breach in respect of which the suit is instituted occurs or (Where the breach continuing) when it ceases.

COMMENTARY

This article applies when the plaintiff in his suit avers that there was a good and valid contract and that the defendant has broken the terms of such contract. The contract is therefore came to an end and the plaintiff pray for compensation. Basis of the suit is that the contract has been broken and damages are sought.

A suit for refund of advance money paid by plaintiff to the defendant under an agreement that the defendant should execute a lease in favour of plaintiff and failed to do so. Suit lies under this article and time prescribed is three years¹.

A suit by the vendor of an immovable property for personal payment of unpaid purchase money would be governed by this article².

A Suit for enforcement of personal covenant to pay mortgage money when mortgagor has bound himself to repay the same is governed by this article¹.

A Suit by a pledger for an action against pledgee for recovery or properties pledged or their value is governed by this article².

Where under an agreement the depositor can not claim the articles pledged in specie and can claim the price a suit can be filed under this article.

To file a suit against a Bank. Whose Manager has committed theft of articles in the Locker, to claim damages this article applies³.

A Suit to enforce to continuing guaranted bond would be governed by this article. The period of limitation begins to run when the contract of continuing guarantee is broken⁴.

Mare mortgagee was deprived of Mortgage security suit for Recovery of Mortgage money lies under this article⁵.

వివరణ

ఏదేని Contractను అమలు జరుపక ఉల్లంఘించినందువలన కలిగెడి నష్టమును రాబట్టు కొనుటకు దావా చేయుటకు గడువు ఉల్లంఘించిన తేదీ నుండి 3 సంవత్సరములుగా గుర్తించవలెను.

ఇతరత్ర ఇటువంటి సందర్భములలో గడువు నిర్ణయింపబడకపోతే కూడా ఈ article వర్తిస్తుంది. పార్టీల మధ్య ఏదేని Contract ఉన్నప్పుడే ఈ article వర్తిస్తుంది. నష్టపరిహారం కోరే దావాలు ఈ article వర్తింపజేయుదురు.

1. AIR 1978, Kant Page 146.

2. AIR 1930, Mad 364.

3. AIR 1965, S.C. 1963.

4. Manget Lalita Samuel vs Indo Commercial Bank Ltd, AIR 1979, S.C. Page 102.

5. AIR 1964, S.C. 1295.

PART III

SUITS RELATING TO DECLARATION

Description of Suits	Period of Limitation	Time from which Period begins to run
56. To declare the forgery of an instrument issued or registered.	Three years	When the issue or registration becomes known to the plaintiff.

COMMENTARY

To file a suit to get a declaration that an instrument is a forgery whether such instrument is issued or registered period of limitation is three years Limitation starts from the knowledge of Plaintiff of the fraud¹.

వివరణ

ఏదేని వ్రాతమూలకం Forgery అని Declaration పొందుటకు దావా చేయుటకు గడువు మూడేళ్ళు - చేయబడిన మోసం వాదికి తెలియ వచ్చినప్పటి నుండి గడువు లెక్కించవలెను.

Description of Suits	Period of Limitation	Time from which Period begins to run
57. To obtain a declaration that an alleged adoption is invalid or never in fact, took place.	Three years	When the alleged, adoption becomes know to the Plaintiff.

COMMENTARY

This article corresponds to Act 118 or the old Act.

For filing a suit to obtain a declaration that an alleged adoption is invalid or it never took place time for filing such suit is three years from the time when the alleged adoption came to the knowledge of plaintiff.

The plaintiff shall allege and prove two facts one the date of alleged adoption secondly when it came to the knowledge of plaintiff this should be read along with section 42 of specific Relief Act.

1. *Menshenu vs State*, AIR 1982, M.P. (FB)

A Suit for declaration that an alienation made by any adopted son is not binding on plaintiff is governed by this article and it should be filed within three years after the date of adoption¹.

The mere registration of adoption deed can not be held to be constructive notice to those interested in challenging the adoption².

వివరణ

ఏదైనా దత్తత జరిగినదయినయు అది చెల్లినేరదనిగాని - దత్తత జరిగినట్లు చెప్పకోబడే దత్తత అసలు జరగలేదనిగాని Declaration పొందుటకు దావా వేయుటకు గడువు మూడు సంవత్సరాలు. దత్తత జరిగినదని చెప్పబడే తేదీ నుండి మూడు సంవత్సరాలలో దావా దాఖలు చెయ్యాలి.

దత్త స్వీకార పత్రిక రిజిస్ట్రీ అయినంత మాత్రాన ఆ విషయం ప్రతివాదికి తెలిసినట్లు చెప్పేవీలులేదు.

దత్తత చెల్లదనిగాని అసలే జరగలేదని గాని దావా చేస్తే వాదియే ఆ అంశములు రుజువు పరచాలి.

Description of Suits	Period of Limitation	Time from which Period begins to run
58. To obtain any other declaration.	Three years	When the right to sue First accrues.

COMMENTARY

This is a residuary article. This corresponds to articles 93, 119 and 129 of the repealed Act. This is of a wider scope. Suits for a declaration for various matters are governed by this article.

A suit under Sec 21, Rule 58 CP code for declaration that the plaintiff in the owner in possession of the disputed premises and they are not liable for attachment and sale in execution of a decree is governed by this article³.

This article applies to cases where the status of a person on the basis of which maintenance is claimed is denied⁴.

Right to sue Accrues when the right in respect of which the declaration is sought is denied or Challenged⁵.

1. Janikamma vs Matareddy, AIR 1956, A.P. Page 141.

2. AIR 1925, Lah Page 25.

3. A.K. Gupta vs Official Liquidator, AIR 1971 All Page 25.

4. C. Appalakonda vs Chittemma, AIR 1979, A.P. Page 45.

5. AIR 1959, S.C. 798.

Services Declaration : Where a Government servant who was Pursuing departmental remedies against his discharge from service, the Limitation for obtaining declaration starts from the date of receipt of his rejection of his revision Petition¹.

Suit for Specific Movable Property Covers only a Suit wherein the Plaintiff alleges he is entitled to Possession of Movable Property in Special².

వివరణ

ఇంకదేనినైనా గురించిన Declaration నిమిత్తం దావా చేయటకు గడువు మూడు సంవత్సరాలుగా నిర్ణయింపబడినది. ఇది వరలో చెప్పబడినవిగా మిగిలిన Declaratory పరిహారముల నిమిత్తం చేయు దావాలకు ఇది వర్తించును. ఇది శేషించిన (Residue article) article.

1. IR 1986, S.C. 508.

2. AIR 58, S.C. 827.

PART IV

SUITS RELATING TO DECREES AND INSTRUMENTS

Description of Suits	Period of Limitation	Time from which Period begins to run
59. To cancel or set aside an instrument or decree or for the rescission of a contract.	Three Years	When the facts entitling the plaintiff to have the instrument or decree cancelled to set aside or the contract rescinded first became known to him.

COMMENTARY

To file a suit to get the relief of (a) cancellation or to set as the instrument or decree or for rescission of a contract time limit is 3 years from the date when the facts leading to cancellation etc. became known to plaintiff.

This article applies when plaintiff is a party to the instrument.

Instrument is not defined by Limitation Act. But Stamp Act. it is defined as including every document by which any right or liability is, or purports to be created, transferred, limited or extended extinguished or recorded.

In stroud's Judicial Dictionary it is stated that an "Instrument is a writing and generally imports a document of a format legal kind and in Law Lexicon it is mentioned as "a formal legal writing a record, a charter deed transfer or agreement".

This a settlement deed is an instrument attracting this article.

An award is an instrument within the meaning of this article.

This article applies for suits contemplating recession of contracts.

This article say that the period of three years run from the date when the plaintiff came to know the facts entitling him to have the instrument cancelled or set aside¹.

Trust Properties - Suits : Suit to set aside Sale of Trust Property can be filed within 12 years from date of Transfer¹.

Suit to set aside Decree, Deed : Time under this article runs from the date when facts entitling the Plaintiff to have the instrument or decree or Cancelled or set aside or the Contract rescinded first becomes known to him².

Right Acscues when the right in respect of which the declaration is sought is denied or Challenged³.

Services Declaration : Where a Government servant who was Persuing departmental remedies against his discharge from service, the Limitation for obtaining declaration starts from the date of receipt of his rejection of his revision Petition⁴.

వివరణ

ఏదేని దస్తావేజు లేదా వ్రాతమూలకమును రద్దు చేయించమని కోరుచుగాని, Set aside చేయించమనిగాని కోరుచు దావా చేయుటకు గడువు 3 సంవత్సరాలు. ఏదేని కోర్టు డిక్రీని రద్దు చేయమని కోరుచు దావా చేయుటకు గూడ గడువు 3 సంవత్సరాలే.

అటులనే Contract వ్యవహారాల నుండి తప్పుకొనుటకు కూడా (Recission of a contract) గడువు 3 సంవత్సరాలుగా తెలిసికొనదగును.

ఏదేని దస్తావేజును రద్దు పరిపించమని కోరుచు దావా చేయుటకు తగిన కారణములు వాదికి తెలిసిన నాటి నుండి 3 ఏళ్ళు లోపుగా దావా దాఖలు చెయ్యాలి. డిక్రీ రద్దు పరిపించుట Contract నుండి తప్పుకొనుటకు కూడా దావా చేయుటకు గడువు 3 ఏళ్ళు మాత్రమే.

1. D.K. Murty vs C. Ramana, 93(2) ALT 414.

2. AIR 1969, S.C. 552 = AIR 68, S.C. 956.

3. AIR 1959, S.C. 798.

4. AIR 1986, S.C. 508.

Description of Suits	Period of Limitation	Time from which Period begins to run
60. To set aside transfer of property made by the guardian of a ward.	Three Years	
(a) by the ward who has attained majority.		When the ward attains majority.
(b) By the ward's representative.		
(i) When the ward within three years from the date of attaining majority.		When the ward attains majority.
(ii) When the ward before attaining majority.		When the ward dies.

COMMENTARY

This article provides three years limitation to file a suit by the erstwhile minor to set aside any alienation (Transfer) or property made by the guardian and the period prescribed is three years for the ward from the date of attaining majority.

The Act Contemplates another circumstance where the ward attains majority and dies before filing a suit to set aside the transfer of property made by his guardian. The legal representative of the ward can file the suit to set aside the Transfer of property made by the guardian during ward's minority the period of limitation is three years from the date of ward's attaining majority.

The third claim of case contemplated by the Act are where the ward dies before attaining majority. The ward's legal representative can file the suit to set aside the transfer of property within 3 years from the date of death of the ward.

In all the above cases what is contemplated is setting aside transfer of property made by the guardian of minor's property.

In the first type of cases the minor who attains majority himself has to file the suit within 3 years from the date of his attaining majority to set aside any transfer of property made by his guardian during his minority.

In the second type of cases the Act contemplates the ward dies after attaining majority but before filing the suit as contemplated within

3 years from the date of his attaining majority. Then the ward's legal representative has to file the suit within three years from the date of ward attaining majority. To illustrate if a ward attains majority and is aged 20 years and dies without filing the suit. Then his legal representative has to file the suit within one year from the date of his death because had the ward would be alive he had to file the suit before he attains 21 years by the guardian during ward's minority. The period of limitation is three years from the date of ward's attaining majority.

The third class of case contemplated by the Act are where the ward dies before attaining majority. The ward's legal representative can file the suit of property within 3 years from the date of death of the ward.

In all the above cases what is contemplated is setting aside transfer of property made by the guardian of minor's property.

In the first type of cases the minor who attains majority himself has to file the suit within 3 years from the date of his attaining majority to set aside any transfer of property made by his guardian during his minority.

In the second type of cases the Act contemplates the ward dies after attaining majority but before filing the suit as contemplated within 3 years from the date of his attaining majority. Then the ward's legal representative has to file the suit within three years from the date of ward attaining majority. To illustrate if a ward attains majority and is aged 20 years and dies without filing the suit. Then his legal representative has to file the suit within one year from the date of his death because had the ward would be alive he had to file the suit before the attains 21 years.

In the third type the ward dies before attaining majority. Then his legal representative has to file the suit within 3 years from the date of death of the ward - to set aside the transfer of Property made by his guardian.

Under Hindu Law a defacto guardian of a minor can sell the property or the minor to a third person for legal necessity¹.

1. Kasturi vs S.V. Rao, AIR 1970, A.P. Page 440.

MINORS PROPERTY - SETTING : Aside alienation : Fact that undue influence continued even after the date of knowledge will not Postpone Limitation¹.

Suit for setting aside sale deeds executed by guardian : Minors who want to seek recovery of possession of property sold by guardian during their minority should seek setting aside of the sale deeds and seek recovery of possession within 3 years of attaining Majority. In this case suit held to be barred by Limitation².

వివరణ

ఎవరైనా గార్డియన్ మైనరు యొక్క అస్తిని అన్యక్రాంతము చేసినచో మెజారిటీ వచ్చిన మూడేళ్ళలోపుగా నదరు అన్యక్రాంతము చెల్లదని మెజారిటీ పొందిన ఆసామీ దావా చేయవచ్చును.

ఎవరైనా మైనరు యొక్క గార్డియన్ మైనరాస్తిని మైనారిటీలో ఉండగానే అన్యక్రాంతము చేస్తే నదరు అన్యక్రాంతము చెల్లదని మైనరు యొక్క వారసుడు దావా చేయవచ్చును. అనగా మెజారిటీ వచ్చిన మూడేళ్ళలోగా ఆ ఆసామీ చనిపోతే అతడి వారసుడు నదరాస్తి రాబట్టుకొనుటకు దావా చేయవచ్చును. మెజారిటీ పొందిన ఆసామీ సజీవుడై యుంటే ఏ గడువులోపున దావా చేయవలెనో ఆ గడువులోపునే వారసుడు దావా దాఖలు చెయ్యాలి.

మెజారిటీ పొందిన ఒక్క ఏడాదిలో ఆ పూర్వపు మైనరు చనిపోతే అప్పటి నుండి రెండేళ్ళలో ఆ వారసుడు నదరాస్తి రాబట్టుకోడానికి దావా చెయ్యవచ్చును.

ఒకవేళ మైనరు - మైనారిటీలో ఉండగానే మరణిస్తే అట్టిమైనరు యొక్క వారసుడు మైనరు మరణించిన మూడేళ్ళలోపుగా నదరు అన్యక్రాంతము చెల్లదని దావా దాఖలు చెయ్యాలి.

1. AIR 1968, S.C. 956.

2. Vishwanbhar vs Lakshminarayana, AIR 2001 SC 2607.

PART V

SUITS RELATING TO IMMOVABLE PROPERTY

Description of Suits	Period of Limitation	Time from which Period begins to run
61. By a mortgagor.		
(a) to redeem or recover possession of immovable property mortgaged.	Thirty years	When the right to redeem or to recover possession accrues.
(b) to recover possession of immovable property mortgaged and afterwards transferred by the mortgagee for valuable consideration.	Twelve years	When the transfer becomes known to the plaintiff.
(c) to recover surplus collections received by the mortgagee after the mortgage has been satisfied.	Three years	When the mortgagor re-enter on the mortgaged property.

COMMENTARY

This reflects the provisions contained in articles 105, 134 and 148 of the repealed Act.

Under the repealed Act the period provided to redeem or recover possessions was 60 years. This period has been radically reduced to 30 years by this article.

Article 61 (a) applies to suits for redemption against a mortgagee, against the heirs of the mortgagee or against the persons to whom the mortgagee's interest only has been transferred against persons who have purported to have purchased the property but without paying valuable consideration there of and against persons who have purchased the property with notice of the mortgage and are thus stopped from denying the title of the mortgagor¹.

1. *Chunai vs Ram Prasad*, AIR, All 1967 (FB).

Where the suit is filed 29 years after execution of the mortgage deed the suit is not barred by limitation¹.

A mortgagor can sell the mortgaged property to his mortgagee and put him in possession - and thereafter all right, title and interest in the property would vest in the mortgagee. Such a sale is valid and binding between them and hence forth the character of possession of mortgagee would be converted into possession as on absolute owner².

A unilateral declaration by the mortgagee during the continuance of the mortgage that he was holding the mortgaged property as owner is not sufficient to make the possession thereafter adverse to the mortgagor³.

Art 61(C) would be attracted when the suit property in mortgaged. a larger interest in the mortgage property was alienated by the mortgagee for valuable consideration. The transferee continued in possession for more than 12 years⁴.

It is essential that the transfer must be for valuable consideration where the transfer is without consideration Art 61 (B) is not attracted⁵.

If consideration is absent Art 61 (b) is not applicable⁶.

Limitation of 12 years commences to run when the Transfer become known to Plaintiff⁷.

61 (C) This article would govern suits by a mortgagor against the mortgagee and also including suits for rendition of a accounts under Sec. 76(1) or the T.P. Act.

There must be independent Obligations, Mutual dealings should be there to constitute Mutualaccount⁸.

Statement of Accounts need not be in writing⁹.

Suit filed for redemption of Mortgage after 58 years is barred by Limitation.

1. Vora vs Vora Ibrahim, AIR 1999, Guj 101.

2. Subbayya Pandaran vs Mohamed Mustpha, AIR 1967, SC 978.

3. AIR 1957, Kerala 175, AIR 1967 SC 975.

4. Gulindar Singh vs Lal Singh, AIR 1965 SC 1553, 1965 (2) An.W.R. SC8.

5. AIR 1951 All 167 (FB)

6. E. Malappa vs S. Venkata Narasayya, AIR 1972 A.P. Page 295.

7. Dhanalakshmi Ammal vs G. Anthuras, AIR 1972 mad 185.

8. AIR 1959, S.C. 1349.

9. AIR 1967, S.C. 187.

Suit for recovery of Possession of Land is 12 years. When knowledge about transfer is known¹.

Period of Redemption of Mortgage : Starts from the very first date of valid Mortgage².

Suit filed for redemption after 58 years. Held it is barred by Limitation³.

వివరణ

తాను పెట్టిన తనఖాను విడిపించుకొనుటకు గాని లేదా తనఖా ఆస్తి స్వాధీనం నిమిత్తంగాని దావా చేయుటకు కాలనిర్ణయం 30 సంవత్సరాలు. తనఖా బాకీ విడిపించుకొనుటకుగాని - తనఖా ఆస్తితిరిగి స్వాధీనం పొందుటకుగాని నిర్ణయించుకొనిన తేదీ లగాయతు 30 సంవత్సరములు అని తెలుసుకోవాలి. తనఖా దస్తావేజులో వ్రాసికొనిన గడువు ముగిసిన తేదీ నుండి దావా చేయుటకు 30 సంవత్సరాలు అని గుర్తించాలి. 61 (b) తనఖా పెట్టిన ఆస్తిని సరియైన (Valuable consideration) క్రయ ప్రతిఫలానికి తనఖా పట్టిన ఆసామీ విక్రయించితే సదరాస్తిని తిరిగి రాబట్టుకొనుటకు గడువు 12 సంవత్సరాలు అని తెలియదగును. తనఖా పట్టిన ఆసామీ ఏ తేదీన తనఖా ఆస్తి విక్రయించెనో ఆ తేదీ లగాయతు 12 ఏళ్ళలోగా దావా చెయ్యాలి.

61 (c) తనఖా పట్టిన ఆసామీ తనకు రావలసిన సొమ్ముకు మించి (Excess) వసూలు చేసిన సొమ్ము రాబట్టు నిమిత్తం దావా చేయుటకు 3 సంవత్సరాలు గడువు అని తెలుసుకోవాలి.

తనఖా పెట్టిన ఆసామీ తాను తిరిగి తన ఆస్తిని పొందిన తేదీ లగాయతు 3 సంవత్సరాలలోగా అదనపు సొమ్ము రాబట్టుకోడానికి దావా చెయ్యవచ్చును.

1. AIR 2001, kerala 171, MKA Khader vs K.M. Usmankutty.

2. 99 SC 1047.

3. Smt. Piboo vs Smt Dhamas, AIR 2000 SC Page 3146

Description of Suits	Period of Limitation	Time from which Period begins to run
62. To enforce payment of money secured by a mortgage or otherwise charged upon immovable property.	Twelve years	When the money sued or becomes due.

COMMENTARY

A suit to enforce payment of money secured by a mortgage or otherwise charged upon immovable property from the date 12 years when the money sued or becomes due.

This refers to suits for money charged on immovable property to resist it out of that property.

A suit for foreclosure on the basis of an anomalous mortgage is a suit for enforcement or payment of money charged on immovable property within the meaning of this article¹.

"Charge" is defined by section 100 of the T.P. Act. A suit to recover balance of consideration falls under this article².

A period of 12 years is provided under this article from the date when the money sued or becomes due³.

When a mortgage deed provides that the mortgage money shall be payable on demand it becomes repayable at once and limitation starts from the date of the deed under this article⁴.

If there have been any payments made by the mortgagor to the mortgagee time runs from the date of last payment⁵.

A mortgagor who had lost interest in the mortgaged property can not by payment of interest or principal within the meaning of Section 19 of Limitation Act and bind the person on whom the interest devolved relied on⁶.

Where the suit was based on an equitable mortgage filed 8 years after granting loan even then it does not bar the claim of Plaintiff⁷.

1. *Vijay Kumar vs Ram Prasad*, AIR 1960. Bom 411.

2. AIR 1978 All Page 436.

3. AIR 1960. Cal 409.

4. *Venkatasami Chettiar vs Ramalingam*, AIR 1945, Mad 157 (FB).

5. AIR 1985, All Page 89.

6. *Murli Devi vs Indu Bala*, AIR 1964, SC 1295, AIR 1940, Mad 470 FB.

7. *Indian Overseas Bank vs K. Narasayya*, AIR 1998, A.P. Page 75.

In a suit for payment of money secured by mortgage, claim was covered by Article 62 of the limitation Act¹.

Statutory charge : To enforce statutory Charge when becomes due time Limit is 12 years².

వివరణ

స్థిరాస్తి తనఖాపైగాని లేదా స్థిరాస్తి హామీ (Charge) పైగాని అప్పు ఈయబడిన సొమ్ము రాబట్టుకొనుటకు దావా చేయుటకు గడువు 12 సంవత్సరాలు. ఆస్తి తనఖా ఇచ్చినతడు - తనఖా పట్టి అప్పు ఇచ్చిన ఆసామీకి ఏదైనా కొంత సొమ్ము యిచ్చి చెల్లుపెడితే - ఆ యిచ్చిన తేదీ లగాయతు మరి 12 సంవత్సరములు గడువుండును.

బాకీ తీర్చుటకు ఒప్పుదల అయిన తేదీ నుండి 12 సంవత్సరాలు గడువు (దావా చేయుటకు) అని గుర్తించాలి.

Description of Suits	Period of Limitation	Time from which Period begins to run
63. By a mortgagee.		
(a) for foreclosure	Thirty Years	When the money secured to the mortgagee becomes due.
(b) for possession of immovable property mortgaged.	Twelve Years	When the mortgagee becomes entitled to possession.

COMMENTARY

This should be read along with section 67 of Transfer of property Act.

What is a suit for foreclosure?

A suit to obtain a decree that a mortgagor shall be absolutely debarred of his right to redeem the mortgaged property is called a suit for "Foreclosure"

Hence article 63 (a) applies to suits for foreclosure. Under a mortgage by conditional sale, and under anomalous mortgages where there is an express stipulation in that behalf.

1. AIR 1993, P&H. Page 25.

2. D.D. Authority vs Sttipper Constructions Co., (P) Ltd., AIR 2000, S.C. 573.

This article applies even in cases of simple mortgages if there is a contract to that effect.

63 (b) provides a uniform period of 12 years for a suit by mortgagee for possession of immovable property mortgaged to him from the date when the mortgagee becomes entitled to possession.

63 (b) applies to suits for possession against mortgagors and strangers¹.

63(b) Time begins to run from the date when the mortgagee becomes entitled to possession.

వివరణ

తనఖా పెట్టిన ఆసామీ తనఖా తీర్పుటకు ఇక అవకాశం లేకుండా నిలిపివేయు దావా (Suit for foreclosure) తనఖా పట్టిన ఆసామీ 12 సంవత్సరాలలోగా దాఖలు చెయ్యాలి.

తనఖా పెట్టబడిన ఆస్తి స్వాధీనం నిమిత్తం 12 సంవత్సరాలలోగా దావా చెయ్యాలి. తనఖా పట్టిన ఆసామీ స్వాధీనానికి హక్కు పొందిన తేదీ నుండి 12 ఏళ్ళులోగా దావా చెయ్యాలి.

Description of Suits	Period of Limitation	Time from which Period begins to run
64. For possession of immovable property based on property based on previous possession and not on title, When the Plaintiff while in possession of the property has been dispossessed.	Three years	The date of dispossession.

COMMENTARY

This article corresponds to article 142 of the old Act.

A period of 12 years has been prescribed by this article for a suit for possession of immovable property based on previous possession and not on title when the plaintiff while in possession of the property has been dispossessed time begins to run from the date of dispossession. Thus this article is restricted to suits based on possessory title. In such

1. ILR 39, Mad 811.

cases plaintiff seek protection on his previous possession which falls short of statutory period of prescription to recover possession from another trespasser.

In Official Receiver East Godavari vs Govindaraju Full Bench of Madras High Court observed as follows :

His Lordship Leach C.J. observed as follows : It may be a hardship that a person who proves a title to property should lose to a trespasser unless he can also show that he has been in possession within 12 years of suit but that is what the Limitation Act say and the Court must administer the Law¹.

Against a person claiming adverse possession ejectment order was passed by Tahsildar executed. It was not acted upon. The possession ripens into adverse possession after statutory Period².

Tenant in possession can not claim adverse possession against purchaser of property³.

Mere possession for a long time or permissive possession does not convert it into adverse possession⁴.

To base a claim on adverse possession ingredients have to be established⁵.

Possession is on behalf of all Co-Sharer. Possession of mortgagee after discharge of mortgage is not adverse possession⁶.

To take shelter under this article the plaintiff must initially have been in possession of the property and should have been dispossessed by the defendant or someone through whom the defendant claim⁷.

Act 64 covers the suit for possession of immovable property which is based on previous possession only so that an owner of the property does not lose unless the defendant in possession is able to prove adverse possession⁸.

In order that a plaintiff should succeed in the suit there should be a prayer in the suit to dispossess the defendant⁹.

1. AIR 1940, Madras Page (FB).

2. Balakrishna vs Satya Prakash, AIR 2001, SC 700.

3. AJit Chopra vs Sadhuram, AIR 2000, SC Page 212.

4. Roop Singh vs Ram Singh, AIR SC 2000, Page 1485.

5. Serhnam vs Ry Director, AIR 2000, SC Page 979.

6. AIR 2001, H.P. Page 9.

7. Gulindar Singh vs Lal Singh, AIR 1965, SC page 1553.

8. Madhu vs Yashwant, AIR 1974, Bom 12.

9. AIR 1958, Pun 187, Harnam Singh vs Kanshi Ram.

Under Sale agreement possession was delivered. Suit for specific performance by buyer decreed. Buyer failing to pay balance consideration to owner. however he continued to remain in possession. It was held it was adverse possession of buyer¹.

A permissive possession can not be converted into adverse persession unless it is proved that the person in possession asserted an adverse title to the property to the knowledge of the owner for a period of 12 years or more².

In order to constitute acquisition of title by adverse pessession the pessession must be actual but not constructive³.

When both parties are relying on possessory title it is necessary that they should prove affective possession over the property in order to succed on the basis or possessory title⁴.

Limitation to file a suit starts from the date of dispossession.

Burden of Proof : The legal owner is not required to prove his subsisting Title the onus of proof lies on the defendant to prove that the title of plaintiff was extinguished by his remaining in possession openly and in hostility to that of the plaintiff⁵.

Where the question for determination is whether party has perfected his title by adverse possession or not from the facts of such a case would be question of Law⁶.

It is settled beyond dispute that a concurrent finding of fact as beyond the reach of a second Appellate court however grossly erroneous the finding may be unless there was no evidence to support - it⁷.

The scope of possessory title is a mode of acquiring proprietary rights in rem has been clearly set out in SALMOND'S JURISPRUDENCE VIII EDITION AT PAGE 465 as follows :

The possession of material object is title to the ownership of it defacto between person and thing brings the dejure relation alongwith it. He who claims a chattel or a piece of land as his and makes good his claim in fact by way of possession makes it good in law also any

1. Smt. Sona Devi vs Nagina Singh, AIR 1997, Pat page 67.

2. State of Travancore vs A.K. Panicker, AIR 1971, SC Page 996.

3. Abdul Hussian vs Affaruddin, AIR 1921, Cal 83.

4. Satyanarayana Raju vs Hanumayamma, AIR 1967, SC Page 174, 1962 ALT 81.

5. Jugeswar vs Sheopyan, AIR 1986, Pat 35.

6. Chandrasekhar vs Siddagarappa, AIR 1971, Mysore 339.

7. Meenakshi Mills Ltd vs Comms of Income Tax, AIR 1957, SC Page 49.

way of ownership. There is however an important distinction to be drawn. For the thing so possessed may, or maynot, already belong to some other person."

If, when possession of it is taken by the claimant, it is as yet the property of no one - *res nullius* as the ROMANS said the possession acquires a title good against all the world. The fish of the sea and the fowls of the air belong by an absolute title to him who first succeeds in obtaining possession of them. This mode of acquisition is known in roman law as *OCCPATIO*.

On the otherhand, the thing of which possession is taken may already be the property of some on else. In this case the title acquired by possession is good, indeed against all third persons, but is of no validity at all against the true owner. Possession, even when consciously wrongful, is allowed as a title of right against all persons who cannot show a better because of a prior title in themselves.

Save with respect to the rights of the original proprietor, my rights to the watch in my pocket are much the same whether I bought it honestly, or found it, or abstracted it from the pocket of some one else, if it is stolen from me the law will help me to the recovery of it. I can effectually sell it, lend it, give it away, or bequeath it, and it will go on my death intestate to my next of kin, whoever acquires it from me, however acquires in general nothing save my limited and imperfect title to it, and holds as I do subject to the superior claims of the original owner.

A thing owned by one man and thus adversely possession by another has in truth two owners. The ownership of the one is absolute and perfect, while that of the other is relative and imperfect, and is oftren called by reason of its origin in possession possessory ownership.

If a possessory owner is wrongfully deprived of the thing by a person other than the true owner he can recover it. For the defendant cannot set up as a defence his own possessory title, since it is later than, and consequently inferior to, the possessory title of the plaintiff. Nor can be set up as defence the title of the true owner the justetil, as it is called, the plaintiff has a better, because an earlier, title than the defendant, and it is irrelevant, that the title of some other person, not a party to the suit, is better still.

The expediency of this doctrine of possessory ownership is clear. Were it not for such a rule, force and fraud would be left to determine all disputes as to possess between persons of whom neither could show an unimpeachable title to the thing as the true owner of it.

Burden of Proof : The Burden of proving the date of dispossession under this article is on the Plaintiff, Who, in order to succeed must show that dispossessions was not prior to 12 years before filing the suit.

Adverse possession implies that it commenced in wrong and is maintained against right.

Adverse Possession - To be Plead : The Pleading with regard to adverse possession should be made.

No amount of Proof can substitute to Pleadings¹.

Co-Sharers possession is on behalf of all Co-Sharers, Possession by Mortgagee after discharge of Mortgage is not adverse Possession³.

Claim of Adverse Possession - Execution of Sale Deed : Adverse Possession Claim was made, 12 years after it without obtaining Possession from that Party - Sale deed Executed by a Party in favour of another will not confer right⁴.

Mortgaged Property - Sale : Character of Possession of Mortgagee after a valid or Voidable Sale by Mortgagor would be adverse to the Mortgagor from the date of Sale⁵.

Co-owner - Possession : Co-owner Possession who is entitled as such Co-owner to be in Possession of the Property must be referred to that title and cannot be adverse to other Co-owners⁶.

If there is ouster or something equivalent to it then the Possession of Co-owner will be adverse to the others⁷.

Adverse Possession can be referred to a Lawful title it is not adverse of evidence as to lawful or unlawful it must be assumed that Possession is Lawful⁸.

Mutation : Mutation in the name of elder Brother for Collection of Rents, Revenue it is not hostile act against the other⁹.

Minor - Adverse Possession : A minor owner cannot sell Property, the Property the sale of it to Mortgagee is invalid. Mortgagee cannot Claim adverse Possession¹⁰.

1. AIR 1996, S.C. 112.

4. Pujari Chantal Reddy vs M.S. Kumari, 92(1) ALT 340.

6. AIR 1971, S.C. 376, AIR 57 S.C. 314, 56 S.C. 546.

AIR 1995, S.C. 895.

10. AIR 1963, S.C. 70.

3. AIR 2001, H.P. 9.

5. AIR 1967, S.C. 978.

7. AIR 57 S.C. 314. 8.

9. 1995 AIR S.C. 895.

Adverse Possession : Actual Physical Possession of Property in dispute is not necessary for Claiming adverse Possession¹.

Adverse Possession is a question of fact².

In deciding whether alleged acts of a person Constitute adverse Possession regard must be had to the animus of the Person doing those acts, and this must be ascertained from the facts of each case³.

To Constitute adverse Possession the Possession required must be adequate in Continuity, in Publicity and in Extent to show that it is Possession adverse to Owner, Peaceful, open and Continuous⁴.

Mortgagee - Adverse Possession : During Substistence of Mortgage, Mortgagee who obtains Possession under terms of Mortgage is not entitled to Claim adverse Possession⁵.

Mortgage - Discharge - Possession : Even after discharge of Mortgage if Mortgagee Continues in Possession it would become adverse to the Mortgagor⁶.

Mortgage - Possession : Mortgagee in Possession cannot Convert his Possession into one as owner⁷.

Muslims Property - Co-owners : Eventhough Co-owner did not receive share in Collection of offerings, even though Co-shares was not in Management, when no denial of right was made in earlier litigation. On the death of Co-shares her legal heirs could Claim right as Co-sharers⁸.

Ouster - Test : The test to see if there is an ouster is to see if the Co-owner in Possession has openly uneequivocally and to the knowledge of other Co-owners denied their title to Property⁹.

Co-owner - Adverse Possession : Mere non Participation in Profits of the Property by one Co-owner and Exclusive Possession by the other will not be Sufficient¹⁰.

Ouster by Co-owner Proof : Insuring Property is only an act of Management and cannot Constitute ouster by one Co-owner¹¹.

Who alleges ouster should Prove it¹².

1. AIR 1989, S.C. 1269.

3. AIR 1986, S.C. 1889.

5. AIR 1967, S.C. 978, 63 S.C. 70, 60 S.C. 85.

7. AIR 1967, S.C. 987.

9. 57 S.C. 314, 56 S.C. 548.

11. AIR 86 S.C. 1921

2. AIR 1966, S.C. 470.

4. AIR 1957, S.C. 314.

6. AIR 1963, S.C. 454.

8. AIR 1990, S.C. 507.

10. AIR 57 S.C. 314, 81 S.C. 77.

12. AIR 57 S.C. 314.

Partition Suit - Co-Bhumidar : In respect of Joint holding in a partition Suit defence of adverse Possession is of no legal Consequence¹.

Co-owner - Adverse : Co-owner had no notice of assertion of cannot be said to have perfected title by Prescription².

Co-heirs : Doctrine that Possession of one Co-owner is Prima facie not adverse to the other Co-owner is applicable to the Co-heirs³.

Adverse Possession - Equity : Person claiming adverse Possession has no equities in his favour, he has to plead and establish adverse Possession.

Exclusive Possession of Joint Family Property by a Co Parcener is not adverse to other Co-owners, unless such possession is exercised by ousting others⁴.

Religious Institutions can also acquire Property by Adverse Possession and loose Property by Adverse Possession of AIR 66 S.C. 1603.

Licensee - Adverse Possession : A Revocable License cannot Claim Adverse Possession even if he remains in Possession even after license is revoked, unless there are overt Acts by licensee indicating hostile title⁵.

Person who claims adverse Possession should show by evidence. i.e. his Possession was hostile to real owner and amounted denial of his title to the Property claimed⁶.

Suit for Possession Based on Title : Once the title is established on the basis of evidence i.e. documents, unless defendant Proves adverse Possession for Prescriptive Period, the Plaintiff cannot be non suited⁷.

Tethering cattle, Storing Logs on a Piece of Land does not amount to denial of title⁸.

Co-owners - Adverse Possession : Even if one of the Coparceners is not in Joint Possession and enjoyment of Co-parcenary Property it is not ouster. Mutation of name of Elder Brother for Collection of rent does not Prove hostile title⁹.

Tenant : In regard to cultivatory Plots in Agricultural area, Presumption is that Person in Possession is Prescribing for a tenancy right and not for a proprietary title¹⁰.

1. AIR 1995, SC 1789.

3. Air 57 SC 314, 71 SC 2184, 90 S.C.07.

5. AIR 1963, All 199, AIR 84, S.C. 930.

7. 1988 (1) SC C. 614.

9. AIR 95, SC 895.

2. AIR 96, SC 1003.

4. AIR 1996, SC 1724.

6. AIR 55, SC 895.

8. AIR 1939, All 161.

10. AIR 1950, All 496.

Adverse Possession - Permissive Possession : Where the initial Possession Permission, burden lies on the person Claiming adverse Possession to establish by cogent evidence that the Possession became adverse, - Suit for Possession filed in 12 years - Defendants claim by adverse Possession was not allowed¹.

To base Claim on adverse Possession : it is not not enough to allege that one is in Possession of Land, ingredients have to be alleged².

Possession taken under void document, Suit to recover Possession simpliciter can be filed, no need to seek declaration about invalidity of document. Suit would be governed by Article 65³.

Mere non Participation in Profits by one Co-owner will not be Sufficient to constitute adverse Possession by the other⁴.

Where Possession could be referred to a lawful title, it will not be considered to be adverse. The reason being that a person whose possession can be referred to a lawful title will not be permitted to show that his Possession was hostile to another's title⁵.

Actual Physical Possession of the Property in dispute is not necessary for Claiming adverse Possession⁶.

Question of Adverse Possession is one of fact⁷.

In deciding whether alleged acts of a Person constitute adverse possession regard must be had to the animus of the person doing those acts and it should be ascertained from circumstances⁸.

Co-Bhumiadar's cannot claim adverse Possession in respect of Joint holding against Co-bhumindars⁹.

No Proof or Pleading that other Co-owner's have notice of hostile title - Purchaser Co-owner cannot be said to have Perfected title by Prescription¹⁰.

Doctrine that the Possession of one Co-owner is *prima facie* not adverse to the other Co-owners is applicable to Co-heirs¹¹. Principle is that the Possession of one Co-owner is *Prima facie* not adverse to other Co-heirs of a Mohammadan¹².

1. *Sardar Prabbed Singh vs Syed Ali Nusa Raza*, 97(3) ALT 562 = 97 (3) ALD 741.

2. *Seshamani vs Dy. Director of Consolidation*, U.P. 2000, S.C. 979.

3. *State of Moharastra vs Pravin Jethalal Pamadar*, AIR 2000, S.C. 1099.

4. AIR 1957, S.C. 314, AIR 815, S.C 77.

6. AIR 1986, SC 1889.

7. AIR 1989, SC 1269.

9. AIR 1995, S.C. 1789.

10. AIR 96, S.C. 1003.

5. AIR 1995, S.C. 895.

7. AIR 1966, SC 470.

11. AIR 1957, S.C. 314

12. AIR 1971, S.C. 2184.

Person Pleading adverse Possession has no equities, he has to Plead and establish adverse Possession¹.

Exclusive Possession of Joint Family property by a Co-Parcener is not adverse to other Coparceners unless such Possession is exercised by ousting others².

When there is break in adverse Possession of the wrong doer, limitation ceases to run against the lawful owner of the Property³.

On abandonment or relinquishment of Property by the adverse Possessor the Possession automatically reverts in the owner and no act is necessary on his Part to bring about reversion Limitation ceases to run against the true owner⁴.

If trespasser admits rightful owner's title before the expiry of statutory Period his Possession ceases to be adverse, Provided the admission relates to Property in dispute and it is unequivocal⁵.

Tenant - Landlord - Eviction Proceedings - Purchaser : Tenant in Possession of Premises during eviction Proceedings cannot claim adverse Possession as against Purchaser⁶.

Second Appellate Court can not for the first time give finding on Adverse Possession⁷.

Co-sharer - Constructive Possession : Co-sharer Possession should Prove by cogent evidence that by receipt of rent or an admission by the defendant or his predecessor in interest could be deemed to be in actual or Constructive Possession as owner, Co-sharer over the Property indispute⁸.

Defendant to Prove that he had been in adverse Possession for more than 12 years before Suit⁹.

Insolvency : In a Petition for declaration of a Person as insolvent the limitation would run from the date when other Co-owners claim their exclusive title to Joint Properties¹⁰.

Long Possession - Tenant : Mere Long Possession as Tenant would not convert permissive Possession into adverse Possession¹¹.

1. AIR 1996, SC 869.

3. AIR 1971, SC 2556.

5. AIR 1954, SC 33.

6. Ajit Chappra vs Sadhu Ram, AIR 2000, S.C. 212.

7. TTD vs K.M. Krishnaiah, AIR 98, SC 1132.

9. AIR 1965, S.C. 1553.

11. Roop Singh vs Ramsingh, AIR 2000, S.C. 1485.

2. AIR 1996, SC 1924.

4. AIR 1958, SC 434.

8. AIR 1977, S.C. 1123.

10. AIR 96, S.C. 941..

The right that is acquired by Prescription cannot be anything more than what the wrong doer Purported to Prescribe for¹.

Party's claim is based on S.53-A of T-P. Act. It is evident that he admits by implication that his possession is lawful under the Agreement and the Plea of adverse would not be available to him².

Possession - Title : Title ordinarily carries with it the presumption of Possession, Where the question is as to who was in Possession of land, the Presumption is that the true owner was in Possession³.

Adverse Possession - Contract : When the Commencement and continuance of Possession is legal and Proper referable to a Contract, it cannot be adverse. In case of executory Contract until the date of registration of conveyance the Possession of transferee is permissible or derivative and in law is deemed to be on behalf of the owner himself⁴.

Mortgagee - Possession : Mortgagee in Possession cannot by asserting Possession as owner convert into one as owner⁵.

Co-owner - Adverse Possession : Co-owners title refers to a lawful title, the Possession of one Co-owner cannot be considered to be adverse to other Co-owners⁶.

Co-Owner - Ouster : If there is ouster or something equivalent to it then the Possession of the Co-owner will be adverse to the others⁷.

If there is no ouster nor exclusion the Co-owner's Possession is not adverse to the others⁸.

Mere Possession for 12 years will not become Adverse Possession unless it is hostile to owner⁹.

Suit for Possession - Claim of Adverse Possession : In a Suit for Possession based on title Plaintiff to prove title and nothing more. Payment of Taxes, obtaining Permissions, no objection and construction of house, Mere Possession of property will not become adverse Possession unless hostile to owner of property¹⁰.

Adverse Possession : Burden lies on defendant to prove adverse possession, stray Acts of Putting some construction material on the site do not prove continuity in possession¹¹.

1. AIR 1961, SC 1442.

3. AIR 1954, SC 355.

5. AIR 1967, SC 987.

7. AIR 57, SC 314.

9. 98 (2) ALT 766 = 98(2) ALD 568, Prapul Chandra Mukpalakar vs P.R. Reddy.

10. Propul Chandra Mukpalakar vs P.R. Reddy, 1998(2) ALT 766 - 98(2) ALD 569.

11. Pavan Kumar vs K. Gopala Krishan, 98(2) ALT 313, 98(2) ALD 421.

2. AIR 96, SC 910.

4. AIR 1990, SC 553.

6. AIR 1971, SC 376.

8. AIR 1956, S.C. 548, 95 SC 895.

Watch and Ward - inducted into possession to watch land, they acquire no title by prescription¹.

Co-owner - Adverse Possession : Co-owner cannot set up plea of adverse possession when partition did not take place².

Mutawalli - Adverse Possession : Mutawalli managing wakf property cannot claim adverse possession³.

Suit filed by adoptive son for recovery of possession of property within 12 years from the date of death of Adoptive Mother is not barred by Limitation⁴.

Possession by one Co-owner is not by itself adverse to other Co-owners⁵.

Co-owner - Adverse : Possession - Adverse possession by Co-owner does not arise unless ouster is established⁶.

వివరణ

ఎవరైనా ఆసామీ ఒక ఆస్తిని స్వాధీనం కలిగియుండగా సదరు స్వాధీనము నుండి తొలగింపబడితే - తిరిగి సదరాస్తిని స్వాధీనం పొందుటకు దావా చేయుటకు నిర్ణయింపబడిన గడువు 12 సంవత్సరాలు. ఈ 64వ ఆర్టికల్ ద్వారా అని తెలుసుకోవాలి.

ఏదేని ఒక ఆస్తిని ఒక ఆసామీ చిరకాలము స్వాధీనం కలిగియుండి తనదిగానే భావిస్తూ అనుభవిస్తూ ఉంటే ఒక విధమైన హక్కు ఆ ఆస్తియందు ఆ ఆసామీకి సిద్ధించుతుంది. సదరాస్తియందు అసలు హక్కుగల వ్యక్తి తప్ప ప్రపంచములో మరియొకరెవ్వరూ ఆ వ్యక్తిని తొలగించలేరు.

దీనినే “స్వాధీనపు హక్కు” అని (Possessory title) పిలుస్తారు. ఇట్టి హక్కు సర్వత్ర ఆమోదింపబడి యున్నది. దానికే చట్ట బద్ధమైన రూపకల్పన చేసినారు.

సముద్రంలోని చేపలు - జల జంతువులు - ఆకాశమందు ఎగిరే పక్షి జాతిని - పనంలో సంచరించే మృగాలు ఎవరు ముందుగా పట్టుకుంటే అవి వారి సొత్తు అయిపోతాయి.

1. Shiv Shankar vs Sadisiva Reddy, 90(2) An.W.R 511.

2. Pragada Venkata Rama Ragga Rao Vs Bondalam Venkata jagannadham 1989(1) ALT 82.

3. AIR 1999 SC 1136.

4. AIR 2001 Karnakaka 322, Kristappa vs A.K. Jarakakhane.

5. AIR 71, S.C. 2184.

6. 1979 (1) ALT 35 = 78 (2) APLJ 294.

ఒక చిన్న కథ

అరణ్యవాస సమయంలో అర్జునుడు పాశుపతాస్త్రం పొందే నిమిత్తం ఈశ్వరుడుని గురించి తపస్సు చేస్తాడు. అర్జునుని పరాక్రమం వరీక్షించే నిమిత్తం ఈశ్వరుడు మాయాభిల్లుడు వేషంలో అర్జునుడున్న తపోభూమికి వస్తాడు. అక్కడ ఒక అడవి పంది ఉంది. దానిపై బాణ ప్రయోగం చేస్తారు.

“నా బాణమే ముందు తగిలింది ఆ పందికి” అని అర్జునుడు - కాదు నాములికియే తొలిసారిగా తగిలించని భిల్లుడు ఇద్దరు తగాదా పడతారు. అంటే ఇక్కడ తెలుసుకోవలసిన విషయం ఏమిటంటే ఎవరి బాణం ముందు తగిలితే ఆ జంతువు వారిది అయిపోతుంది అని. తరువాయి కథ అందరికీ తెలిసిందే. అర్జునుడు భిల్లునితో యుద్ధం చేసి ఈశ్వరుడుని మెప్పించి అతడిని ప్రార్థించి పాశుపతాస్త్రం పొందుతాడు”

ఇదెందుకు చెప్పబడిందంటే తొలిసారి ఎవరు తీసికొందురో ఆ వస్తువు (ఎవరిదీ కానిది) వారిదే అయిపోతుందని తెలుసుకోవడం నిమిత్తం.

అయితే Tenant ఎంత కాలం అనుభవించినా అది వానికి హక్కు. అవదు. ఆస్తిలో ప్రవేశించినప్పుడే యజమాని యొక్క Title అంగీకరించి Rent pay చేస్తూ ఉంటాడు కనుక ఎంతకాలం అనుభవించినా Tenant కు Possessory title రాదు.

లైసెన్సు పొంది స్వాధీనం కలిగి ఉంటే అట్టి వ్యక్తికి (Licensee) ఈ హక్కు సిద్ధించదు.

అటులనే అనుమతి పొంది స్వాధీనం కలిగియున్న ఆసామీకి కూడా ఇట్టి Possessory title రాదు.

ముందు పేజీలలో వ్రాయబడిన తీర్పులను గమనించునది¹.

Where an auction purchaser at a Sale held in execution of a simple mortgage decree obtained by the mortgagee is obstructed by a third person in taking delivery of possession and the auction purchaser filed a suit for taking possession against the third person he must establish his possession within a period of 12 years before filing the suit. To such a case article 142 (Old article) is applicable. The auction purchaser cannot rest his case on title alone. If he fails to prove this his suit must be held to be barred by limitation².

1. AIR 1960, Mad Page 812, Natesa Nadar vs J.G. Daniel.

2. AIR 1940 Mad 788 (FB), Vyapuri vs Somanna Boi Ammani

Description of Suits	Period of Limitation	Time from which Period begins to run
<p>65. For possession of immovable property or any interest therein based on title.</p> <p>EXPLANATION : for the purposes of this article.</p> <p>(a) Where the suit is by a remainder-man, a reversioner (other than a landlord) or a devisee the possession of the defendant shall be deemed to become adverse only when the estate of the remainder man, reversioner or devise as the case may be, fails into possession.</p> <p>(b) Where the suit is by a Hindu or Muslim entitled to be the possession of immovable property on the death of a Hindu or Muslim female, the possession of the defendant shall be deemed to become adverse only when the female dies.</p> <p>(c) Where the suit is by a purchaseer at a sale in execution of a decree when the judgement-debtor was out of possession at the date of the sale the purchaser shall be deemed to be a representative of the judgment debtor who was out of possession.</p>	<p>Twevle years.</p>	<p>When the possession of the defendant becomes adverse to the Plaintiff.</p>

COMMENTARY

The provisions of article 144, 141, 138, 137 and 47 of the repealed Limitation Act with drastic changes have been enacted in this New article 65.

Where the plaintiff brings a suit for possession of immovable property of any interest therein on the strength of his title without reference to prior possession or dispossession this article applies. In order to succeed in such a suit the plaintiff should prove his title unless the defendant is able to displace it by proof of adverse possession by himself or his predecessor-in-title for the whole statutory period.

It may be seen that article 64 relates to recovery of possession basing on previous possession i.e. possessory Title and whereas this article 65 relates to suits filed for recovery of possession of immovable property basing on Title and the period of limitation is 12 years from the time when the possession of defendant becomes adverse to Plaintiff.

What is adverse possession ?

It is as follows : Adverse possession must be actual possession of another's land with intention to hold it and claim it as his own. It must commence with wrongful dispossession of the rightful owner at some particular time it must commence in wrong and must be maintained against right. It must be actual open, notorious, hostile under claim of right continuous and exclusive and maintained for the statutory period¹.

The burden of Proof of making is on the person claiming to displace the lawful title of a co-heir by his adverse possession².

The Plaintiff who files a suit for possession has to prove not only his title to the suit property but also his possession over the same within 12 years from the date of the suit³.

Where the defendants under an invalid lease have been in undisputed by in possession of the disputed lands for over 55 years they must be held to have acquired rights as perpetual lessees by adverse possession⁴.

A revocable license cannot give the licensee any title by adverse possession unless he remains in possession after it is revoked⁵.

1. Ramlal vs Chetu, AIR 1958 Pun 335.

2. P. Lakshmi Reddy vs L. Lakshmi Reddy, AIR 1957, SC 314, 1957 (1) An W R (SC) 216.

3. Lingamma vs Putte gowda, AIR 1963, Mysore 1 FB.

4. Satya Promoda vs M. Gunnayya, AIR 1982, A.P. Page 24.

5. Subashilal vs Wursan singh, AIR 1963, All 199.

The tenancy rights in agricultural land can be lost and acquired by adverse possession¹.

The Law recognized two rights viz. a right for possession of immovable property and the other a right relating to any other interest in such immovable property.

Supreme court held that the definition of the word "defendant" is an inclusive definition but the gist of it is the existence of Jural relationship between different persons. There can be no Jural relationship between two independent trespassers. Therefore where a defendant in possession of property is sued by a person who has title to it but is out of possession what he has to show in defence is that he or anyone through whom he claims has been in possession for more than the statutory period. An independent trespasser not being such a person the defendant is not entitled to tack on the previous possession of that person to his own possession².

"Reversion" arises where the grantor grants a particular estate to a person and does not dispose of the remainder that which is not disposed of which reverts to the grantor after the exhaustion of the particular estate³.

A reversioner's suit for recovery of possession of immovable property alienated by a widow is governed by this article and it is not necessary that the transfer should be set aside before any decree for possession is made all that is necessary is that the reversioner should file the suit for possession within 12 years from the death of the widow and a decree passed in such a suit must be on the basis that the possession of the Transferee was unlawful ever since widow dies⁴.

In a suit by a Hindu or Muslim entitled to the possession of immovable property on the death of a Hindu or Muslim female the possession of the defendant shall be deemed to become adverse only when the female dies. Time begins to run from the date when female dies.

In a suit by the auction purchaser for partition in a court sale who had purchased an undivided share of the J.drs in a Co-parcenary property limitation begins to run from the date of delivery of possession or symbolic delivery and not from the date of confirmation of sale⁵.

1. AIR 1979, SC Page 1142, Padmini Bai vs Tanganna.

2. Gunbinder Singh vs Lal Singh, AIR 1965, SC 1553.

3. Maharaja K. P. Singh vs Madho Prasad Singh, AIR 1974, Pat 72.

4. Munnareddi vs Dovariraja, AIR 1952, SC 109.

5. I. Ramamurthy vs K.P. Ratna, AIR 1971, Orissa 263.

The above decision was reiterated¹.

Delivery or Symbolical interrupts adverse possession by the J.Ds. The delivery of Symbolical possession is the line of demarcation between possession precedent and possession subsequent².

The plaintiff could be denied the relief of possession only if the defendant succeeds in showing that he was in adverse possession of the property in dispute for more than 12 years mere continuance of unauthorised possession. even for a period of more than 12 years is not enough. There must be some overt act on the part of the defendant indicating assertion of hostile title³.

Setting up adverse possession by the person in adverse possession is not wrong. It is not shameful on his part, This plea is allowed with a laudable intention of giving a quietus to long possession⁴.

Minor Property Alienation : Minor Can challenge the legality of Sale of Property made by defector guardian can be challenged within 12 years of Sale.

Alienation of Property made by minor natural guardian can be challenge within 3 years of attaining Majority⁵.

Minor - Holder of Promissory : Minor within 3 years after attaining Majority, after 12 years from date of endorsement for collection - Suit not barred by Limitation⁶.

Permissive Possession : Adverse Possession : Permissive Possession will not become adverse Possession Payment of Property tax by Defendant does not disprove plaintiff title, when Municipal records show title of Plaintiff to Suit Property⁷.

Co-Owner Adverse Possession : When Partition does not take place Co-owner cannot take plea of adverse Possession⁸.

Plea of Limitation : A Party may raise Plea of Limitation even in Appellate Court. If it is a question of Law⁹.

1. Jay Gopal vs Gulal Chand, AIR 1974, Orissa. 173 FB.

2. AIR 1977, Madras 347.

3. Gaya Pershad vs Nirmal, AIR 1984, SC 930.

4. V. Muthaiah Pillai vs Vedemial, AIR 1980, Mad 06.

4. 1983(2) ALT 153 = 83(2) An.W.R. 204 = 83 L.S. 168.

6. M. Poda Veeranna vs M. Chakrapani, 1958 ALT 718.

7. Shiv Shankar vs Sadasiva Reddy, 1990 (2) An.W.R. 511.

8. Pragada Venkata Rama Jagga Rao vs B.V. Jagannadham, 1989(1) ALT 82.

9. E. Sriranga Rao vs E. Sampath Rao, 1990 (1) An. WR. 6.

Adverse Possession Plea - Burden of Proof lies on defendant to Prove it¹.

Suits for Declaration of title Recovery of Possession title Denied:
Title is denied, Suits for Declaration of title and recovery of possession is 12 years under Article 65 of Limitation Act².

Claim of Adverse Possession must be open without any attempt of concealment³.

Adverse Possession Claim against a Purchaser in Execution Sale of Mortgage decree can not Commence Prior to the date of Sale⁴.

Against Municipality title by Adverse Possession is Complete after 30 years.

Exclusive Possession of a Co-sharer does not amount to adverse Possession, unless ouster of other Co-sharers is established⁶.

Payment of Insurance Premium on the widow's land will not amount to assertion of hostile title⁷.

Suit Based on Title cannot be dismissed until defendant establishes that he was in adverse Possession for over 12 years⁸.

The Defendant failed to establish the exact date from which adverse possession started running it was held no title by Prescription⁹.

Adverse Possession Plea : Burden; Suit based on title was filed, Defendant failed to Prove adverse Possession, Plaintiff therefore entitled to declaration of title as Prayed¹⁰.

Suit for Possession - Limitation : Suit for Possession or interest in any immovable Property should be filed within 12 years from the time when the Possession of defendant becomes adverse to Plaintiff¹¹.

Deposit - Loan Difference : Difference between the two is very thin can be differentiated only from circumstances of transaction. Conduct of defendants showing transaction as one of deposit and not

1. Me. Hehata vs K. Co-op Housing Society Ltd., 2001 (5) ALT 19 = 2001(5) ALD 1102.

2. S. Babu Rao vs V. Suryanarayana, 93(2) ALT 317.

3. AIR SC 707.

4. AIR 1956, SC 593.

6. AIR 1966, SC 1724.

7. AIR 86, SC 1921.

8. AIR 1980, All 210.

9. 97 SC 381.

10. GVK Rama Rao vs Backlyte Hylam, Employees Co-op House Building Society Hyderabad, 97(4) ALT 304 = 97(4) ALD 294.

11. Ahalya Bai vs C.Sharkariah, 96(4) ALT 922 = 96(4) ALD 1088.

Loan - Period of Limitation is 3 years from date of service of Notice and not from date of taking Amount¹.

Suit for Possession - Based on title Suit for Possession to be filed within 12 years, when defendant's Possession became adverse².

Permissive Possession is given Adverse Possession when not proved by Defendants no right in Property can be claimed³.

Defendant should Prove Adverse Possession for over 12 years before the filing of Suit by Plaintiff, to non suit the Plaintiff⁴.

Co-owner Share : Cannot be opposed by other Co sharers on grounds of being in adverse Possession, unless ouster is established by conclusive evidence⁵.

Adverse Possession : Period for perfection title by Adverse Possession comes to grinding halt when a suit for recovery of possession is filed⁶.

Person in possession property asserting his right over it, the same was resisted by filing petition before collector for redressal, the adverse possession. Plea was negatived⁷.

వివరణ

ఎవరైనా ఆసామీ స్థిరాస్తి స్వాధీనం పొందుటకు దావా దాఖలు చేయుటకు తనకు గల హక్కును (Title) ఆధారంగా చేసుకుని కోర్టును అభ్యర్థించుటకు గడువు 12 ఏళ్లు. ఎప్పటినుండి 12 సంవత్సరాలు అనగా ప్రతివాదికి సదరాస్తిపై “వ్యతిరేక భుక్తం” (adverse possession) కాక మునుపు ఆ గడువులోగా దావా దాఖలు చెయ్యాలి.

ఈ క్రింది సందర్భాలను గమనించునది :

ఏదేని స్థిరాస్తి యందు కొంత గడువు వరకు మాత్రమే హక్కు కల్పించితే - కొడువ హక్కును పొందు అధికారముగల ఆసామీ Remainder man అగును.

ఏదేని ఆస్తి యందు ఎవరికైన జీవితకాలం అనుభవించుటకు మాత్రమే హక్కును కల్పించితే సదరు జీవిత కాలపు హక్కు అనుభవించు ఆసామీ మరణానంతరం సదరాస్తి ఎవరికి చెందవలెనో ఆ ఆసామీని Vested reminder holder అంటారు. (Landlord కాకుండు)

1. M/s K. Ramachandra Rao & Co. vs K. Sankha Kumari, 1996(1) ALT 120.

2. Y.V. Choudary vs Daggubati Lakshminarayana, 96(1) ALT 877 = 96(1) ALD 641.

3. 93(3) ALT 562

4. 97(1) ALD 294 = 97(4) ALT 304.

5. AIR 99 SC 2633.

6. Babu Khan vs Narim Khan, AIR 2001 SC 1740.

7. AIR 2001 MP 196, Khushid Ali vs Kukubuddin.

మరియొక ఆసామీ ఎవరనగా "devisee". అనగా ఎవరి పేరున divise చేయబడునో ఆ ఆసామీ అని తెలియదగును. ఎవరేని ఆసామీకి ఏదేని స్థిరాస్తి యందు నిర్ణీత గడువు నిచ్చి అంతవరకు అనుభవం కల్పించితే ఆ ప్రయోజనం పొందే ఆసామీ divisee అవుతాడు.

పై విధములుగ ఆస్తిపై హక్కు సంపాదించిన ఆసామీలు సదరాస్తి స్వాధీనం పొందు నిమిత్తం తమకు గల హక్కును ఆధారంగా చేసుకుని స్వాధీనం కలిగియున్న ఆసామీపై దావా చెయ్యవచ్చును. సదరాస్తి యందు స్వాధీనముగల ఆసామీకి వ్యతిరేక భుక్తపుహక్కు ఎప్పటి నుండి కలుగునో అప్పటి నుండి 12 సంవత్సరాలలోగా చెయ్యాలి. ఎవరైనా ఒక హిందువు లేదా ముస్లిం వ్యక్తులు హిందు లేక ముస్లిం స్త్రీ మరణానంతరం వారికి స్వాధీనం గల ఆస్తిని తమకు స్వాధీనం ఇప్పించమని తమ హక్కును ఆధారం చేసుకుని దావా చేయుటకు గడువు 12 సంవత్సరాలు అని తెలియదగును. అయితే సదరాస్తి స్వాధీనంగల ఆసామీని తొలగించి తాము స్వాధీనం పొందుటకు గడువు 12 సంవత్సరాలు - ఎప్పటి నుండి అనగా - ఆ అనుభవం గల హిందు - ముస్లిం స్త్రీల మరణానంతరం నుండి అని తెలిసుకోదగును.

ఇక మూడవ అనుబంధ విషయం ఏమనగా, ఏదేని కోర్టు వేలంలో J' Dr ఆస్తిని కొనుగోలు చేసిన Court - auction purchaser విషయం పై విధంగా కోర్టువేలంలో క్రయం పొందిన ఆసామీ తానెవరి ఆస్తిని కొనుగోలు చేసెనో - ఆ యాస్తి యందు J' Dr స్వాధీనం ఎప్పుడు తప్పినో అప్పటి నుండి 12 సంవత్సరములలోగా ప్రతివాదిని స్వాధీనము నుండి తప్పించుటకు దావా చెయ్యవలసి యున్నది.

వ్యతిరేక భుక్తం అంటే?

పై విధముగ స్థిరాస్తి స్వాధీనం నిమిత్తం చేయు దావాలలో ప్రతివాదులు తమకు సదరాస్తి యందు చిరకాల స్వాధీనం కలదనియు - హక్కు గల ఆసామీకి వ్యతిరేకంగా తాము తమ స్వంత హక్కుతో 12 సంవత్సరాలకు మించి అనుభవిస్తున్నానియు - ఆస్తి పై హక్కుగల ఆసామీ యొక్క హక్కు (Title) అతడు కోల్పోయినాడని వాదన చేసి (defence) ఆ వాదన ఋజువు చేస్తే వాది దావా కోల్పోవును.

ఎవరైనా ఆసామీకి స్థిరాస్తి యందు హక్కు (Title) కలిగియుండి - సదరాస్తిని మరియొక ఆసామీ తన సొంతమువలె చిరకాలం 12 సంవత్సరాలకుపైగా అనుభవించితే దానిని వ్యతిరేక భుక్తం (adverse possession) అంటారు. ఎవరికి వ్యతిరేకం? సదరాస్తియందు Title గల ఆసామీకి వ్యతిరేకం - ఏమిటా వ్యతిరేకం?

భుక్తం (Possession) వ్యతిరేకం.

అనగా ఆస్తుల యందు తమకు గల హక్కులను Vigilant గా Jealous గా కాపాడు కోవాలని లేకపోతే చిరకాల అనుభవం వలన అవి అనగా హక్కులు కోల్పోదురని తెలుసుకోవాలి.

స్థిరాస్తి యందు హక్కులు ఒక్క క్రయ దస్తావేజు రీత్యా వారసత్వం రీత్యానే కాకుండా మరికొన్ని విధాలుగా కూడా కల్పించబడునని సిద్ధించుతాయని తెలుసుకోవాలి. పీటిలో భాగంగా Remainder man.

Reversioner మరియు Divorce :

కొందరికి తదనంతరం హక్కులు కల్పించబడును.

ఎవరైనా ఒక హిందు లేదా ముస్లిం స్త్రీలు తమ జీవిత కాలం అనుభవించిన తరువాత వారు మరణిస్తే - వారి మరణానంతరం హక్కుగల ఆసామీ స్వాధీనం నిమిత్తం దావా చేయవచ్చును.

పై విధములుగా హక్కు పొందిన ఆసామీలు సదరాస్తులు స్వాధీనం పొందుటకు దావా చేయుటకు గడువు 12 సంవత్సరాలు.

మరియొక విధముగా హక్కు సంపాదించునది ఏమనగా Execution విధానంలో - స్థిరాస్తిని కోర్టు వేలంలో కొనుగోలు చేసిన ఆసామీ - తానెవరి ఆస్తిని కోర్టు ద్వారా కొనుగోలు చేసెనో ఆ ఆసామీ స్వాధీనానికి ప్రతివాది ఎప్పటి నుండి అనుభవంలో ఉండెనో లెక్కించి - స్వాధీనం నిమిత్తం దావా చెయ్యాలి.

ఆస్తి హక్కు ఆధారం చేసికొని స్వాధీనం నిమిత్తం దావా చేయు దావాలలో ప్రతివాదికి వ్యతిరేక భుక్తం అవలేదని తొలిసారిగా వాది ఋజువు చెయ్యాలి. ప్రతివాది తాను గెలవాలంటే తాను వ్యతిరేక భుక్తం పూర్తిగా Overt acts ద్వారా ఋజువు చెయ్యాలి. ఇందుపై వచ్చిన తీర్పులను గమనించునది.

Description of Suits	Period of Limitation	Time from which Period begins to run
66. For possession of immovable property when the plaintiff has become entitled to possession by reason of any forfeiture or breach of condition.	Twelve years.	When the forfeiture is incurred or the condition is broken.

COMMENTARY

A period of 12 years for filing a suit is granted to a plaintiff who wants to file a suit to recover possession on the grounds of forfeiture or breach of condition.

The basis of suit is either forfeiture or breach of condition in the contract which enables the plaintiff to recover possession of immovable property. Time begins to run from the date when the forfeiture is incurred or condition is broken.

This article applies to all suits for possession of immovable property.

This article is not limited in its scope to those who have committed breach of condition which entailed forfeiture but also includes those who are in possession by reason of the alienation which may entail forfeiture¹.

Can re-marriage of a Hindu widow the estate owned by her is forfeited and a suit can be filed under this article to recover possession of immovable property.

To incur the penalty of forfeiture of lease under this article it is necessary that the denial of the Landlord's Title and must be made to the knowledge of the Landlord.

Forfeiture denial of Landlord's Title must have occurred before the suit is instituted².

Where there are successive forfeitures the landlord can base his claim for recovery of possession on the latest act of denial of title or breach of condition of the lease³.

1. AIR 1930, Mad 430, *Ayasami vs Mani kurima*.

2. *Maharaja of Jeypore vs RP. Devi*, AIR 1919, PCl.

3. *Vara Lakshamma vs Veeraraghavamma*, AIR 1960, A.P. 166.

Donee Failing to fulfil gift conditions i.e. failing to construct college in time. Donee remains as a trustee. Donor is entitled to claim Back property¹.

వివరణ

చేసిన అపరాధముచేత ఆస్తి యందలి హక్కు కోల్పోయినను విధించబడిన షరతులను ఉల్లంఘించినను వారు పొందిన ఆస్తిని తిరిగి స్వాధీనము చేసికొనుటకు దావా 12 సంవత్సరములలోగా చెయ్యవచ్చును.

హిందూ వితంతు స్త్రీ తిరిగి పెండ్లి చేసికొనిన సందర్భములో అంతకు ముందు తాను పొందిన ఆస్తిని కోల్పోవును. (Forfeit అగును).

కాలుదారు - భూకామందు యొక్క ఆస్తిహక్కును deny చేసిన యెడల కూడా సదరాస్తి స్వాధీనంకు 12 సంవత్సరాలలోగా దావా చేసి రాబట్టుకోవచ్చును. పై తీర్పులను గమనించునది.

Description of Suits	Period of Limitation	Time from which Period begins to run
67. By a landlord to recover possession from a tenant.	Twelve years.	When the tenancy is determined.

COMMENTARY

To file a suit by a Landlord against his Tenant to recover possession of leased property is 12 years from the date of determination of the Tenancy.

Determination means putting an end to the tenancy. From the date of determination of Tenancy, the position of the Tenant is a Tenant holding over. The Landlord should be diligent and that there should be a limit within which he must evict the tenant who is holding over.

To attract this article there should be relationship of Landlord and Tenant between the parties. The suit must be filed by the Landlord against the Tenant to recover possession and the suit must have been brought within 12 years from the date of determination of the Tenancy.

It may be noted that unless the Landlord determines the Tenancy his right to sue his Tenant for possession does not arise.

Section 111 of Transfer of Property Act deals with determination of Tenancy how made.

1. AIR 2001 SC 2340, T.R. Maharaj vs Ramesh Chandra.

Supreme Court observed as follows : Having regard to Sec 116 of Evidence Act during continuance of the Tenancy the Tenant will not be permitted to deny the title of the deity at the beginning of the Tenancy.

A Tenant who has been let into possession can not deny his landlord's Title however defective it may be, so long as he has not restored possession by surrender to his Landlord¹.

వివరణ

కౌలుకీయబడిన భూమి తన టెనెంటు (Tenant) నుండి తిరిగి స్వాధీనం పొందుటకు కౌలు (lease) ను determine చేసిన తేదీ నుండి 12 సంవత్సరాలులోగా దావా చేసి రాబట్టుకోవచ్చును.

Tenancy determine చేసినగాని అస్తి స్వాధీనంకు దావా చేయుటకు వీలులేదు. టెనెన్సీని ఎట్లు రద్దు పరచాలో T.P. Act, Sec 111 చెప్పచున్నది.

Landlord ద్వారా కౌలుకు పొందిన అసామీ తన Landlord యొక్క (Title) హక్కును (deny) చేయరాదు. Deny చేయవలెనంటే తొలుత తాను స్వాధీనం పొందిన అస్తిని landlord కి Surrender చెయ్యాలి. ఈ article క్రింద దావా చేయుటకు పార్టీల మధ్య Landlord & Tenant relationship ఉండాలి. Tenancy determine చెయ్యాలి. Determine చేసిన తేదీ నుండి 12 సంవత్సరాలలో స్వాధీనం నిమిత్తం దావా చెయ్యాలి.

PART VI

SUITS RELATING TO MOVABLE PROPERTY

Description of Suits	Period of Limitation	Time from which Period begins to run
68. For specific movable proeprty lost or acquired by theft or dishonest mispropriation or conversion.	Three years	When the person having the right to the possession of the property first learns in whose possession it is.

Suits relating to movable proeprty : For filing a suit to recover possession of a specific Movable property lost or acquired by theft or dishonest misappropriation or conversion. It is wider in its scope. The property may be lost or acquired by committing theft. or dishonest misappropriation. The property lost must be capable or being identified. In the present day world there are numerous movable properties like Motor cars, Jeeps, Two Wheelers, Furniture, Coal, Jewellery and the like. The defendant might have got it either by committing theft, or dishonest misappropriation and conversion.

The plaintiff should base his suit on his right to possession of the article lost or misappropriated or converted.

The burden of proof is on the plaintiff.

Suit for recovery of Movable Property lost can be filed within 3 years from the date when Plaintiff learns in whose Possession it is lying¹.

వివరణ

ఏదేని ప్రత్యేకమమైన చరాస్తిని కోల్పోయినతడు తిరిగి సదరాస్తి స్వాధీనం పొందుటకు 3 సంవత్సరాలలోగా దావా చెయ్యాలి. ప్రత్యేక వస్తుసముదాయములెన్నో కలవు. కార్లు, జీపులు, స్కూటర్లు, నగలు, ఫర్నీచరు, Timber, Coal మొదలగునవి ఎన్నో కలవు. సదరు వస్తువును దొంగిలించియో అక్రమంగా సొంతం చేసికొనియో లేదా మార్పుచేసిన యెడల అట్టి ఆసామీపై దావా చేసి సదరు వస్తువు తిరిగి స్వాధీనం పొందుటకు

1. 1961, S.C. 1474.

గడువు 3 సంవత్సరములు. వాది కోల్పోయిన వస్తువు ఎవరి స్వాధీనంలో ఉందో తెలిసికొనిన నాటి నుండి 3 సంవత్సరములలోగా దావా చెయ్యాలి, లేని యెడల కాలదోషం పట్టగలదు. ప్రతివాది దొంగతనం చేసినట్లు, లేదా అక్రమంగా మార్పిడి చేసినట్లు ఋజువు చేయు భారం వాదిదే అయియున్నది.

Description of Suits	Period of Limitation	Time from which Period begins to run
69. For other specific movable property.	Three years	When the proeprty is wrongfully taken.

COMMENTARY

This article applies to suits relating to recovery of possession of other movable property. This article is a general article. It may be seen that the other movable means that which are not dealt with by the previous article 68.

This article applies only when the defendant has taken away the specific movable proeprty wrongfully from the plaintiff and illegally with-holding it.

Time begins to run from the date when the property is wrongfully taken.

Initial burden of Proving that the Plaintiff obtained the knowledge of the defendant's Possession of property within three years of the Suit is on the Plaintiff¹.

వివరణ

గత ఆర్టికల్ (68)లో చెప్పబడిన చరాస్తికాక ఏదైనా ఇతర వస్తువును వాది నుండి అక్రమముగా తీసికొనిపోయి - దౌర్జన్యముగా తనవద్ద ఉంచుకొనిన ప్రతివాదిపై సదరు వస్తువు రాబట్టుటకు గడువు 3 సంవత్సరాలు. సదరు వస్తువును అక్రమంగా తీసికొనిపోయిన తేదీ నుండి 3 సంవత్సరాలలోగా దావా చెయ్యవలసి యున్నది.

Description of Suits	Period of Limitation	Time from which Period begins to run
70. To recover movable property deposited or pawned from depositor or pawnee.	Three years	The date of refusal after demand.

COMMENTARY

This article prescribes 3 years limitation to file a suit to recover movable property from a depository or pawnee. It may be seen in case of a pawn an article or movable property is entrusted to the pawnee to secure a debt. The property in the goods or article remains in the pawnor. In the case of a deposit there is possibility of being appropriated as a pawn. In the deposit there is an element of entrustment. The deposit may be for safe custody.

It was held by the High Court of Andhra Pradesh that movable property includes both for purposes of Limitation Act and Indian Contract Act¹.

This article applies for recovery of gold ornaments from the Bank².

వివరణ

ఏదేని చరాస్తిని ఒక అసామీ వద్ద డిపాజిట్ గా ఉంచిన దానిని తాకట్టుపెట్టబడిన వస్తువును తిరిగి రాబట్టుకొనుటకు దావా చేయుటకు గడువు 3 సంవత్సరాలు. డిపాజిట్ ఉంచుకొనిన అసామీగాని, తాకట్టు పెట్టిన వ్యక్తిగాని సదరు చరాస్తిని తిరిగి ఇచ్చుటకు నిరాకరించిన తేదీ నుండి 3 సంవత్సరములు గడువు అని తెలుసుకోవాలి.

సామ్మూ (Money) కూడా చరాస్తి క్రిందకే వస్తుందని A.P. హైకోర్టుతో సహా పలు కోర్టులు తీర్పు చెప్పినవి. Bankలో తాకట్టు పెట్టిన నగలు స్వాధీనం చేసికొనుటకు కూడా ఇదే గడువు అని తెలియదగును.

1. C.W. Corpn vs Central Bank of India, AIR 1974, AP Page 8.

2. Josesh Chandra vs Punjab National Bank & Others, AIR 1998, Del 266.

Description of Suits	Period of Limitation	Time from which Period begins to run
71. To recover movable property deposited or pawned and afterwards brought from the depository or pawnee for a valuable consideration.	Three years	When the sale becomes known to plaintiff,

COMMENTARY

This article refers to a suit to recover the movable property from the depositor or pawnee from whom the said movable property has been purchased for valuable consideration Time begins to run from the date when the Sale becomes known to Plaintiff.

వివరణ

డిపోజిట్గా ఉంచిన లేదా తాకట్టు పెట్టిన వస్తువును విక్రయించిన యెడల సదరు వస్తువును రాబట్టుకొనుటకు గడువు 3 సంవత్సరములు. వాదికి విక్రయమును గురించి తెలిసిన తేదీ లగాయతు 3 సంవత్సరాలు గడువు అని తెలియదగును.

Description of Suits	Period of Limitation	Time from which Period begins to run
74. For compensation for a malicious prosecution.	One year	When the plaintiff is acquitted or the prosecution is otherwise terminated.

COMMENTARY

This article refers to suits that would be filed for recovery of compensation for malicious prosecution. When the prosecution of a person is made with a Motive and to Vindicate differences then the prosecution is tainted with Malice. If the person prosecuted is acquitted or the proceedings terminated otherwise the accused would be left free. From the date of acquittal or dismissal of Revision proceedings the plaintiff can file the suit within one year from the date of final termination of the proceedings to recover compensation for such malicious prosecution¹.

Suit for compensation for Malicious Prosecution can be filed within one year of Acquittal or termination of Proceedings - Filing of Appeal will not suspend running of time².

Filing of Appeal against a decree will not operate as a Suspension of running of time for the enforcement of decree³.

వివరణ

ఏవైనా వ్యక్తిని దురుద్దేశ పూర్వకముగ నిందితునిగా జేసిన యెడల సదరు వ్యక్తిని నిరపరాధిగా ఎంచి విడుదల చేసినను లేదా మరియొక విధముగ నిందితునిపై వచ్చిన అభియోగము నిలబడకపోయినను దురుద్దేశ పూర్వకముగా నిందకు గురియైన వ్యక్తి తనను Prosecute చేసిన వారివద్ద నుండి పరిహారము రాబట్టుకొనుటకు ఒక సంవత్సరంలోగా దావా చెయ్యాలి. తనను విడుదల చేసిన తేదీ నుండిగాని లేదా Prosecution వ్యవహారం మరియొక విధముగ నిలువబడక పూర్తికాబడిన తేదీ నుండిగాని సంవత్సరం గడువు లెక్కింపబడును. విడుదల చేయబడిన ఆర్డరుపై Revision దాఖలు అయితే అది (Revision) dismiss కాబడిన తేదీ నుండి ఒక సంవత్సరం గడువు అని గుర్తించవలెను.

1. Kulsekhar Chetty vs Tholasingam Chetty, AIR 1938, Mad 349 FB.

2. AIR 1958. S.C. 1036.

3. AIR 1958, S.C. 1036.

Description of Suits	Period of Limitation	Time from which Period begins to run
75. For compensation for libel.	One year	When the libel is published.

COMMENTARY

This article speaks about Limitation for filing suits to recover compensation for "Libel"

Libel means ?

Libel is a written or Printed defamation - whereas slander is a spoken defamation¹.

Time begins to run from the date the Libel is published.

వివరణ

ఎవరైనా ఒక వ్యక్తిని అప్రతిష్టపాలుచేయు దురుద్దేశ్యంతో అసత్య ప్రచారం చేసినను - ప్రకటన గావించినను అట్టి చర్యలకు పాల్పడినందుకు ఆ ఆసామీ వద్ద నుండి పరిహారము వసూలు చేయునిమిత్తం దావా చేయుటకు గడువు ఒక సంవత్సరము. అసత్య ప్రచార ప్రకటన వెలువడిన తేదీ లగాయతు ఒక్క సంవత్సరంలోగా నష్టపరిహారం నిమిత్తం దావా చెయ్యాలి.

Description of Suits	Period of Limitation	Time from which Period begins to run
76. For compensation for slander.	One Year	When the words spoken or, if the words are not actionable in themselves, when the special damage complained of results.

COMMENTARY

This article provides a period of one year limitation to recover compensation for Slander from the defendant.

"Slander of title and slander of goods" is a false malicious statement in writing, Printing or by word of Mouth injurious to any person title to property and causing special damage to persons. (Stroud's Judicial Dictionary).

Slander of title is a malicious statement about a persons property

or business and does not relate to his personal reputation but to his title to property or his business or to his material interest.

A Suit lies for recovery of compensation and time begins to run from the time when the injurious words are Spoken when Special damage occurred.

వివరణ

అసత్యప్రలాపముల చేత ఒక వ్యక్తి యొక్క వ్యాపారానికిగాని, వ్యక్తిత్వానికి గాని హాని కలిగించితే ఆ విధంగా ప్రసంగించిన వానిపై దావా చేసి నష్టపరిహారం వసూలు చేయవచ్చును. అట్టి దుర్భాషలాడిన వ్యక్తిపై దావా చేయుటకు గడువు ఒక్క సంవత్సరం - అసత్య ప్రలాపములు చేసిన సమయం నుండిగాని - ప్రత్యేకంగా నష్టం కలిగిన సమయం నుండిగాని ఒక సంవత్సరంలోపుగా దావా చెయ్యాలి.

అసత్య ప్రలాపములచే ఒక వ్యక్తి యొక్క వ్యాపారాన్ని, సరుకులను, వ్యక్తిత్వాన్ని కించపరచేవిగా ఉంటే ఆ ప్రలాపం చేసిన వ్యక్తి నష్ట పరిహారం ఈయవలసి యుండును.

Description of Suits	Period of Limitation	Time from which Period begins to run
77. For compensation for loss of service occasioned by the seduction of the plaintiff's servant or daughter.	One Year	When the loss occurs

COMMENTARY

This article refers to a suit by a father to recover compensation for loss of service as a result a seduction of his daughter or the servant.

Time begins to run from the date of loss. Loss of service means house-hold duties. Whether the seduced person is the daughter of servant makes no difference and it is the loss occasioned by such seduction that is actionable.

వివరణ

తన కూతుర్నిగాని, పని చేయు మనిషిని గాని అపహరించుకుని పోయనందున తనకు సంభవించిన నష్టమును రాబట్టుకొనుటకు ఒక సంవత్సరం గడువుగా ఈయబడినది. నష్టం కలిగిన వాటి నుండి గడువు లెక్కించాలి.

Description of Suits	Period of Limitation	Time from which Period begins to run
78. The Compensation for inducing a person to break a contract with the plaintiff.	Three Years	The date of the breach.

COMMENTARY

Where the defendant induces any person or persons of plaintiff to break the contract with plaintiff, the plaintiff can claim damages for such inducement caused by defendant. To illustrate if there are active and wise employees are engaged by plaintiff in his trade a Jealous defendant may induce such employees to break the contract with plaintiff which results in damage. The suit against the defendant to recover compensation for causing such breach of contract within one year from the date of breach.

వివరణ

వాదితోగల Contractual అనుబంధమును తెగతెంపులు చేసికొమని పురికొల్పిన ఆసామీపై నష్టపరిహారం రాబట్టుకొనుటకు దావా చేయుటకు గడువు ఒక సంవత్సరమని తెలియనగును.

ఏ తేదీ నుండి Contract భగ్నం అయినదో ఆ తేదీ నుండి ఒక్క సంవత్సరంలోగా దావా దాఖలు చెయ్యాలి.

Description of Suits	Period of Limitation	Time from which Period begins to run
79. For compensation for illegal, irregular or excessive distress.	One year	The date of distress.

COMMENTARY

The distress complained of may be three types. The distress may be illegal, irregular and also excessive. All the three need not be present. Any one distress of the kind mentioned above is actionable and the aggrieved plaintiff can file a suit to recover compensation for any distress of the above kind. The suit should be filed within one year from the date of distress.

వివరణ

అన్యాయము - అక్రమము - మితిమీరిన జప్తు చేసిన యెడల అందు నిమిత్తం నష్టపరిహారం వసూలు చేయు దావాకు గడువు ఒక్క సంవత్సరం. ఏదైనా అన్యాయం - అక్రమం మితిమీరిన జప్తు చేసిన లగాయతు ఒక సంవత్సరం లోగా దావా చెయ్యాలి అని తెలుసుకోవాలి.

Description of Suits	Period of Limitation	Time from which Period begins to run
80. For Compensation for wrongful seizure of movable property under legal process.	One Year	The date of the seizure.

COMMENTARY

The basis of suit contemplated under this article is wrongful seizure of movable property of plaintiff. Seizure may be under a process of Law but under the guise of legal process excess seizure of movable property is wrongful and actionable.

Where the goods wrongfully seized from plaintiff were sold to third parties, the plaintiff can file the suit against the defendant who has wrongfully seized the goods and sold to recover compensation from the defendant and it should be filed within one year from the date of seizure. It may be noted that the seizure is of goods in legal but wrongful seizure is actionable.

Seizure means nearly "Attachment" or taking in execution. Seizure implies taking of some thing out of the possession of its owner.

వివరణ

కోర్టు ఆర్డరును పురస్కరించుకొని J. Dr యొక్క చరాస్తిని జప్తు చేయుటలో అవకతవకలు చేసి అక్రమంగా - అన్యాయంగా ఎక్కువ ఆస్తిని జప్తు చేయించితే అందు నిమిత్తం దావా చేయవచ్చును. మితిమీరిన జప్తు చేయించినందుకు నష్టపరిహారం రాబట్టుకొనుటకు దావా చేయుటకు గడువు ఒక్క సంవత్సరం అని గుర్తించాలి. చరాస్తి జప్తు చేయబడిన తేదీ నుండి ఒక సంవత్సరం గడువులోగా దావా చెయ్యాలి.

Description of Suits	Period of Limitation	Time from which Period begins to run
81. By executors, administrators or wronged. representatives, under the Legal Representatives Suits Act. 1855.	One Year	The date of the death of the person

COMMENTARY

This article enables the Executors, administrators or representatives of a person who has been wronged and who has died before taking action against the person or persons who have committed the wrong. It is an enabling provision. Had the person been alive who would have taken action for the wrong done to him but for his death. The wrong done to the estate should have been one year before his death. The time for filing such suit is one year from the date of death of the person wronged.

వివరణ

ఎవరైనా ఆసామీకి గాని, వాని ఆస్తికిగాని, సదరాసామీ చనిపోవుటకు ముందు ఒక సంవత్సరంలోగా చెడుపు లేదా కీడు కలిగించి ఉండి - కీడు పొందిన ఆసామీ కీడు కలిగించిన వారిపై ఎట్టి చర్యలు తీసుకొనకుండా మరణించినచో ఆ మరణించిన వ్యక్తి యొక్క Executors, administrators or representatives ఆ వ్యక్తి మరణించిన తేదీ లగాయతు ఒక సంవత్సరంలోగా నష్టపరిహారం నిమిత్తం దావా చెయ్యవచ్చును.

Description of Suits	Period of Limitation	Time from which Period begins to run
82. By executors, administrators or representatives under the Indian Fatal Accidents Act, 1855.	Two Years.	The date of the death of the person killed.

COMMENTARY

This relates to Suits that may be filed against persons who have caused Fatal accident by their wrongful Act, neglect or default to recover damages. The person injured by the fatal accident should have died as a result of the accident. The damage can be recovered for the benefit of the wife, husband, parent and child if any.

The Suit has to be instituted in the name of Executor, administrator or representative of the deceased person. Time for filing such a suit is two years from the date of death of the person killed.

వివరణ

తీసికొనవలసినంత జాగ్రత్త తీసికొనకపోవుట వలనగాని, పొరబాటు చేతగాని లేదా దుర్మార్గపు చర్య వలన గాని ఎవరైనా ఆసామీకి తీవ్రగాయాలు కలిగించితే - అందువలన ఆ వ్యక్తి (గాయపడిన వ్యక్తి) మరణించితే అందుకు బాధ్యులైన వారి వద్ద నుండి నష్ట పరిహారం రాబట్టుకొనవచ్చును. నష్టపరిహారం పొందుటకు అర్హులైన వారెవరనగా మరణించిన వాని భార్య, తల్లి - తండ్రి, శిశువులూను. మరణించిన వ్యక్తి యొక్క Executor, administrator or representative దావా చెయ్యవచ్చును. దావా చేయుటకు గడువు రెండేళ్ళు. ఎప్పటి నుండి అనగా తీవ్రగాయాల మూలంగా మరణించిన వ్యక్తి మరణ తేదీ నుండి అని గుర్తించాలి.

Description of Suits	Period of Limitation	Time from which Period begins to run
83. Under the Legal Representative Suits Act 1855, against an executor, an administrator or any other representative.	Two Years.	When the wrong complained of is done.

COMMENTARY

This article relates to a suit to be filed against an executor, administrator or any other representative. Time fixed is two years period commences from wrong complained of is done.

తెలుగు సేత

మరణించిన ఆస్తిని Manage చేయు Executor, Administrator లేదా Representative పై చేయబడిన నేరానికి దావా చేయుటకు గడువు రెండేళ్లు.

Description of Suits	Period of Limitation	Time from which Period begins to run
84. Against one who, having a right to use property for specific purposes, converts, it to other purposes.	Two Years.	When the conversion first becomes known to the person injured thereby.

COMMENTARY

This article deals with cases where a property has been given for a specific purpose diverts it to some other purpose. The article is in general nature. For filing a suit against the person who so diverts the time fixed is two years from the time the conversion became known to the person injured by such diversion.

A suit by a Landlord against the Tenant to a whom the property has been leased for specific purpose, but who in contravention of the terms of the tenancy has diverted in into another purpose is governed by this article¹.

What is conversion ?

Excavation of a tank of land in contravention of the terms of lease is conversion. Construction of a Dharmasala of the occupancy

1. Mastan Singh vs Santa Singh, AIR 1933, Lah 705, FB.

field is conversion. Construction of Structures on a land leased for Cultivation is also conversion.

వివరణ

ఎవరైనా ఆసామీ తనకు ఒక విధమైన ఉపయోగం నిమిత్తం ఈయబడిన ఆస్తిని అందుకు కాక మరియొక విధముగ ఉపయోగించిన యెడల ఆ మార్పు వలన నష్టపడిన ఆసామీ - నష్టము కలిగిన రెండేళ్ళలో అందు నిమిత్తం దావా చెయ్యవచ్చును.

Conversion అనగా diversion అని కూడా చెప్పుకోవచ్చును.

వ్యవసాయ నిమిత్తం కొలుకీయబడిన భూమిలో చెరువు త్రవ్వట Conversion క్రిందకే వచ్చును. అటులనే వ్యవసాయ భూమిలో Tenant ధర్మశాల నిర్మించుట కూడా Conversion క్రిందకే వచ్చును.

Description of Suits	Period of Limitation	Time from which Period begins to run
85. For compensation for obstructing a way or a water-course.	Three years	The date of the obstruction.

COMMENTARY

This article deals with Limitation for filing suits to recover compensation for obstructing a way or a Water Course.

If the plaintiff's right to flow water is interfered with by causing obstruction it is a continuing wrong and a suit can be filed against the defendant to recover compensation. Time begins to run from the date of obstruction.

Similar is the case of a way.

వివరణ

వాదియొక్క మార్గమునకు అవరోధం కల్పించినా - తాను తీసి కొనుచుండు నీటికి ఆటంకము కలిగించినా అందువలన నష్టపోయిన ఆసామీ - తనకు నష్టం కలిగించినా ఆసామీపై - నష్టం పొందిన 3 సంవత్సరాలలో పరిహారం నిమిత్తం దావా చెయ్యవచ్చును.

Description of Suits	Period of Limitation	Time from which Period begins to run
86. For compensation for diverting a watercourse.	Three years	The date of diversion.

COMMENTARY

If a Water Course is diverted the plaintiff who had a right to take Water from the said Water Course can file a suit for compensation against the defendant withing three years for such diversion.

వివరణ

తాను నీరు తీసికొనుటకు హక్కు కలిగిన నీటి వనరును (Water Course) మళ్ళించిన యెడల అట్లు మళ్ళించిన ఆసామీపై నష్టపరిహారముకు 3 సంవత్సరములలోగా దావా చెయ్యవచ్చును. దావా చేయుటకు గడువు నీటి వనరును మళ్ళించిన తేదీ లగాయతు 3 సంవత్సరములు అని తెలియనగును.

Description of Suits	Period of Limitation	Time from which Period begins to run
87. For compensation for trespass upon immovable property.	Three years	The date of the trespass.

COMMENTARY

This article deals with filing suits for damages for committing trespass on immovable property. Time for filing suit for compensation is 3 years from the date of trespass. Word "Trespass" also includes mischief which the trespasses commits after entering on the Land. A Suit for damages for setting fire to the Crop on the Land of Plaintiff¹.

వివరణ

తన స్థిరాస్తిపై ఎవరైనా ఆసామీ అక్రమ ప్రవేశం చేస్తే అందుకు నష్ట పరిహారం నిమిత్తం దావా చెయ్యడానికి - అక్రమ ప్రవేశం చేసిన నాటి నుండి 3 సంవత్సరములు గడువు. అక్రమ ప్రవేశం చేసి (Trespass) అందలి పంటను నాశనం చేయుటయో లేక మరియొక విధముగ నష్టం కలిగించితే అందు నిమిత్తం కూడా దావా చెయ్యవచ్చును.

1. Moideen vs Koman Nair, 23 MLJ, Page 618.

Description of Suits	Period of Limitation	Time from which Period begins to run
88. For compensation for infringing copyright or any other exclusive privilege.	Three years	The date of the infringement.

COMMENTARY

This article governs the Suits to claim damages for infringement of copy right or exclusive privilege. Time runs from the date of infringement. Exclusive Privilege means a right to use the Trade Mark Trade Name etc. Time fixed is 3 years.

వివరణ

ఎవరివైనా రచనలను మరియు కరు గ్రంథకర్త అనుమతి లేనిదే తాను రచించినట్లు ప్రకటించుకొని కాపీలు తీయించితే వారిపై వాది Copy Right హక్కు కోల్పోయినందుకు నష్టపరిహారం నిమిత్తం దావా చెయ్యవచ్చు. అటులనే వ్యాపార సరళిలో పెట్టుకొనిన Trade Mark, వ్యాపారం పేర్లు ఇతరులు అపహరిస్తే వారిపై నష్ట పరిహారం నిమిత్తం దావా చెయ్యవచ్చు. గడువు 3 సంవత్సరాలు.

Description of Suits	Period of Limitation	Time from which Period begins to run
89. To restrain waste	Three years	When the waste begins.

COMMENTARY

This article gives three years time to claim damages for committing waste by the defendant. This section had reference to section 76 of the Transfer of Property Act which enumerates the duties and liabilities of a mortgagee. A Mortgagee of Mortgaged property can be sued to restrain waste and the time is 3 year from the the date of commencement of waste.

వివరణ

తనఖా అస్తి స్వాధీనం పొందిన అసామీ సదరాస్తిని Waste చేయకుండా నిరోధించుటకు గడువు 3 సంవత్సరాలు. Waste చేయుట మొదలిడిన నుండి మూడేళ్ళని తెలియనగును.

Description of Suits	Period of Limitation	Time from which Period begins to run
90. For compensation for injury caused by an injunction wrongfully obtained.	Three Years.	When the injunction ceases.

COMMENTARY

A Suit lies against a person who obtains an injunction on **insufficient** grounds to recover damages. Time granted to file such a suit is three years from the date when the injunction ceases.

వివరణ

ఎవరైనా ఆసామీ తనపై ఇంజంక్షను ఆర్డరు పొందిన యెడల అది అక్రమమైన సంగతులతో కూడియుండుటచే అట్టి ఆర్డరు వేయబడితే నదరు ఇంజంక్షను తొలగింపబడిన తేదీ నుండి 3 సంవత్సరాలలోగా నష్టపరిహారం నిమిత్తం దావా చెయ్యవచ్చును. ఇంజంక్షను తొలగింపబడిన తేదీ నుండి గడువు 3 సంవత్సరాలు అని తెలియదగును.

Description of Suits	Period of Limitation	Time from which Period begins to run
91. For compensation : (a) For wrongfully taking or detained any specific movable property lost, acquired by theft or dishonest misappropriation or conversion.	Three Years	When the person having the right to the possession of the property first learns in whose possession it is.
(b) For wrongfully taken or injuring or wrongfully detaining any other specific movable property.	Three Years	When the property is wrongfully taken or injured or when the detainer's possession becomes unlawful

COMMENTARY

A Suit to recover compensation can be filed for the following action viz,

- For wrongfully taking or detaining a specific movable property.

- (b) For loss of specific Movable property.
- (c) Acquired by theft committed by defendant.
- (d) By dishonest misappropriation or conversion.

A Suit for damages for having trespassed upon plaintiff mine and removing coal from there and it is governed by this article¹.

If a person wrongfully detains any specific movable property a suit can be filed under this article.

Plaintiff is entitled to recover movable property or its value, besides damages for detention².

(b) Other Specific movable property means in general as distinguished from the one mentioned in Act 68.

Merely because the bailee failed to return the goods after the expiry of the period for which the goods were bailed his continued possession does not amount to wrongful detention but where the bailee refuses to return the goods on demand it would be a case of wrongful detention³.

PLEDGING GOLD JEWEL AS SECURITY :

Suit for Return of Gold : Gold Jewel given as Security, the limitation for Suit to return of Gold Jewel starts from the date when Demand was made and return of it is refused⁴.

వివరణ

ఏదేని చరాస్తికి సంబంధించిన ప్రత్యేకమైన వస్తువును దౌర్జన్యంగా నిలిపివేసినను, లేదా దొంగిలించినను, తన సొంతము చేసికొనినను - మార్పిడి చేసినను ఆయా కృత్యములు చేసినందుకు అందుకు పాల్పడిన వానిపై నష్టపరిహారం నిమిత్తం దావా చెయ్యవచ్చును. సదరు సొత్తు ఎవరి స్వాధీనంలో ఉన్నదో వాడికి తెలిసిన మూడు సంవత్సరములలోగా దావా చెయ్యాలి.

ఏ ఇతర చరాస్తి వస్తువును అక్రమంగా నిలిపివేసినా నష్టపరిహారం నిమిత్తం 3 సంవత్సరాలలోగా దావా చెయ్యవచ్చును.

1. Baijnath vs Mundra, AIR 1931, Pat 436.

2. Banshi vs Goverdhan, AIR 1976, MP Page 125.

3. Venku Naidu vs Appanna, AIR 1957, Mad 704.

4. T. Suryanarayana vs L. Somayazulu, 84(2) ALT 64.

PART VIII

SUIT RELATING TO TRUSTS AND TRUST PROPERTY

Description of Suits	Period of Limitation	Time from which Period begins to run
92. To recover possession of immoveable property conveyed or bequeathed in trust and afterwards transferred by the trustee for a valuable consideration.	Twelve Years	When the transfer becomes known to the Plaintiff.

COMMENTARY

This article applies to suits for recovering possession of immovable property which has been transferred by Trustee for valuable consideration. A Suit by a beneficiary to recover possession of immovable property transferred by the trustee¹.

Period of limitation is twelve years. Time begins to run from the date when the plaintiff came to know about the transfer. The burden of proof is on the Plaintiff.

వివరణ

ఏదైనా ట్రస్టు నిమిత్తం విక్రయించబడి లేదా Bequeath చేయబడిన స్థిరాస్తిని ఎవరైనా ట్రస్టీ న్యాయమైన ప్రతిఫలం తీసికొని విక్రయించితే సదరు భూమిని స్వాధీనం చేసికొనుటకు 12 సంవత్సరాలుగా నిర్ణయించబడినది. న్యాయమైన ప్రతిఫలానికి విక్రయించబడిన తేదీ లగాయతు 12 సంవత్సరములలోగా దావా చెయ్యాల్సి. లేనిచో కాలదోషం పట్టును.

చేయబడిన దావా సకాలంలోనే ఉందని ఋజువు చేయు భారం వాదిపైనే ఉన్నది.

1. Ranabai vs Raghunata, AIR 1952, Bom 106.

Description of Suits	Period of Limitation	Time from which Period begins to run
93. To recover possession of movable property conveyed bequeathed in trust and afterward transferred by the trustee for a valuable consideration.	Three Years	When the transfer becomes known to the plaintiff.

COMMENTARY

Whereas article 92 applies to immovable properties and whereas this article relates to movable property. The period of limitation is 3 years only. Time begins to run from the date when the transfer is known to plaintiff burden of proof is on the plaintiff.

వివరణ

ఎవరైనా ఒక చరాస్తిని ప్రస్తుకు బదిలీ చేయుటగాని, Bequathe చేయుటగాని జరిగించిన యట్టి చరాస్తిని ఎవరైనా ప్రస్తీ న్యాయమైన ప్రతిఫలానికి విక్రయిస్తే నదరాస్తిని తిరిగి రాబట్టుకొనుటకు గడువు 3 సంవత్సరములు. ఇందలి 92వ ఆర్టికల్ ఫిరాస్తికి సంబంధించినది. ఇది చరాస్తికి సంబంధించినది అయియున్నది.

Description of Suits	Period of Limitation	Time from which Period begins to run
94. To set aside a transfer of immoveable property comprised in a Hindu, Muslim or Buddhist religious or charitable endowment made by a manager there of for a valuable consideration.	Three Years.	When the transfer becomes known to the Plaintiff.

COMMENTARY

The Suit contemplated by this article is to set aside a Sale of immovable property comprised in a Hindu, Muslim or Buddhist Endowment. It should be a religious or chartable endowment. The transfer should have been made by a Manager and the transfer should be for valuable consideration. Time fixed is 12 years from the date it

became known to the plaintiff. A Suit can also be filed for a declaration that the transfer is void and also for an injunction¹.

Even a person in actual possession of the Math is entitled to maintain a suit to recover property pertaining to it not for his own benefit but for the benefit of the Math.

Even a suit by a committee of Management appointed by the Court or the Endowments Department on the removal or suspension of a previous manager can be considered as a suit by a manager within the meaning of this article².

For Recovery of Possession of Property of religious endowment is 12 years, Succeeding Managers right to challenge the transfer would be lost if the Prodecessor who made transfer lives for 12 years after affecting transfer³.

Lease and Mortgage are also transfers within the Meaning of this Article⁴.

ఏదైనా హిందూ - ముస్లిం - బుద్ధిస్టు మతానికి ఆయా మతాలకు చెందిన దేవాదాయ ధర్మాదాయములకు చెందిన స్థిరాస్తిని న్యాయమైన ప్రతిఫలానికి ఆ సంస్థకు సంబంధించిన మేనేజరు ఎవరైనా విక్రయించితే సదరు క్రయమును set aside చేయమని కోరుచూ దావా చేయవచ్చును. అట్టి దావాకు సదరు క్రియ సంగతి వాదికి తెలిసిన నాటి నుండి 12 సంవత్సరముల గడువులోగా చెయ్యాలి లేకపోతే కాలదోషం పట్టుతుంది.

ఆయా ధర్మ సంస్థలకు చెందిన లబ్ధిదారు లెవరైనా (Beneficiary) అట్టి స్థిరాస్తి విక్రయం చెల్లనారదనియు (Declaration) మరియు ఇంజంక్షను ఇప్పించమని కూడా దావా చేయవచ్చును.

సదరు విక్రయం గురించి వాదికి తెలియవచ్చిన 12 సంవత్సరాలలో దావా చెయ్యాలి.

1. Subramani Ayyar vs Mayokne, AIR 1940, Mad Page 81.

2. Machireddy vs Wakf Board, AIR 1973, AP Page 72., Venkateswara vs Venkatesa, AIR 1941, Mad 449 FB.

3. AIR 66, S.C. 859.

4. AIR 53, S.C. 514

Description of Suits	Period of Limitation	Time from which Period begins to run
95. To set aside a Transfer of moveable property comprised in a Hindu, Muslim or Buddhist religious or charitable endowment made by a manager thereof for a valuable consideration.	Three Years.	When the transfer becomes known to the plaintiff.

COMMENTARY

This article relates to file a suit to set aside a transfer of movable to property relating to a Hindu, Muslim or Buddhist religious or charitable Endowment transferred for valuable consideration by its manager. Time for filing a suit is 3 years from and time begins to run from the date when the transfer is known to the plaintiff the previous article 94 relates to immovable property and this article 95 refers to movable property, Except that period of limitation is 12 years under article 94 and limitation is 3 years under this article.

వివరణ

హిందూ - ముస్లిం - బుద్ధిస్టు సంస్థలకు అనగా దేవాదాయ ధర్మాదాయ సంస్థలకు చెందిన ఏదేని చరాస్తిని ఆయా సంస్థలకు చెందిన మేనేజరు న్యాయమైన ప్రతిఫలానికి విక్రయిస్తే - సదరు క్రయం Set aside చేయమని దావా చేయుటకు గడువు 3 సంవత్సరాలు. మేనేజరు చేసిన క్రయం వాదికి తెలియవచ్చిన నాటి నుండి 3 సంవత్సరాలు అని తెలియనగును.

Description of Suits	Period of Limitation	Time from which Period begins to run
96. By the manager of a Hindu, Muslim or Buddhist religious or charitable endowment to recover possession of immoveable property comprised in the endowment which has been transferred by a previous manager for a valuable consideration.	Twelve Years.	The date of death, resignation or removal of the transferror or the date of appointment of the plaintiff as manager of the endowment whichever is later.

COMMENTARY

To recover possession of movable or immovable property relating to a religious or charitable endowment of Hindu, Muslim or Buddhist religion alienated by a previous manager. The Suit is to be filed by the next manager. Period of limitation is 12 years. The time is to be reckoned from the date of death or resignation or removal of the Transferor from the past manager or from the date of appointment of the new manager whichever is later.

State wakf Board can be termed as "Manager" State wakf Board¹.

The transfer of movable or immovable property dealt with under this article is an illegal or unauthorised transfer by a previous manager. This article does not apply to a suit for recovery of a property where the property has been lawfully transferred by a previous manager and the transfer remains affective after his death resignation or removal².

Also see Division Bench Decision of AP High Court³.

Also see AIR 1966, Sc Page 1603 wherein Starting point of limitation commences from the date of appointment of a new manager was discussed.

1. State Wakf Board vs Subramanyan, AIR 1973, AP Page 72.

2. Veeraju vs Venkanna, AIR 1966, SC 629.

3. Y. Gopal Rao vs Seshalah, AIR 1975, AP 155.

వివరణ

హిందూ, ముస్లిం, బుద్ధిస్టు ధర్మాదాయ దేవాదాయ సంస్థలకు సంబంధించిన చర, స్థిరాస్తులను తిరిగి స్వాధీనం చేసికొనుటకు కొత్తగా నియమింపబడిన మేనేజరు 12 సంవత్సరాలలో దావా చెయ్యవచ్చును. అయితే వెనుకటి మేనేజరు మరణిస్తే ఆ మరణ తేదీ నుండి గాని, లేదా రాజీనామా చేస్తే ఆ తేదీ నుండి గాని, లేదా ఉద్యోగము నుండి తొలగించబడితే ఆ తేదీ నుండి గాని లేదా కొత్తగా మేనేజరు నియమింపబడితే ఆ నియామకం తేదీ నుండిగాని 12 సంవత్సరముల గడువులో సదరాస్తుల స్వాధీనం నిమిత్తం దావా చెయ్యవచ్చు. వెనుకటి మేనేజరు జరిగించిన క్రయ వ్యవహారం అన్యాయం (illegal) లేదా అనధికార పూర్వకం (unauthorised) అయియుండాలి. లేనిచో ఈ ఆర్టికల్ వర్తించదు.

Description of Suits	Period of Limitation	Time from which Period begins to run
97. To enforce a right of preemption whether the right is founded on law or general usage or on special contract.	One Year	When the purchaser takes under the sale sought to be impeached, physical possession of the whole or part of the property sold, or, where the subject matter of the sale does not admit of physical possession of the whole property, when the instrument of sale is registered.

COMMENTARY

"Right of pre-emption is the right of purchasing property in preference to other persons. Right of pre-emption is a right of re-purchase either from the vendor or from the vendee invoking a new contract of Sale. It is a right of almost a substitution, entitling the pre-emptor, by means of a legal incident to which the sale itself was subject to stand in the shoes of the vendee in respect of all rights and obligations arising from the Sale under which he has derived his title¹.

22. PREFERENTIAL RIGHT TO ACQUIRE PROPERTY IN CERTAIN CASES :

(1) Where after the commencement of this Act an interest in any immovable property of an intestate, or in any business carried on by

1. Bishan Singh vs Khazan Singh, AIR 1958, SC 838.

him or her, whether soely or in conjunction with others devolves upon two or more heirs specified in Class I of the the Schedule and any one of such heirs proposes to transfer his or her interest in the property or business, the other heirs shall have a preferential right to acquire the interest proposed to be transferred.

(2) The consideration for which any interest in the property of the deceased may be transferred under this section shall in the absence of any agreement between the parties, be determined by the court on application being made to it in this behalf, and if any person proposing to acquire the interest is not willing to acquire it for the consideration so determined, such person shall be liable to pay all costs of or incident to the application.

(3) If there are two or more heirs specified in class I of the Schedule proposing to acquired to any interest under this section, that heir who offers the highest consideration for the transfer shall be preferred.

EXPLANATION : In this Section "Court" means the court within the Limits of whose Jurisdiction the immovable property is situate or the business is carried on, and includes any other court which the state government may, by notification in the official gazatee, specify in this behalf.

See the rights conferred by the Hindu Succession Act as Stated above Right of Pre-emption is the right of purchasing property before or in preference to other persons.

A right for the enforcement of the pre-emption would be barred under this article after a period of one year commencing to run from the date when possession is delivered to the venue contrary to the right of pre-emption¹.

Where the land is not capable of physical possession the later part of coloumn 3 would be attracted².

The moment Sale-deed is excuted the rights of parties stand crystalized and that is the date on a which the deeds are presented for registration and possession is taken by the Vendees³.

1. Gojbat vs Gojbat, AIR 1980, SC 1436.

2. Veerabhadracharyulu vs Subbamma, AIR 1961, AP Page 31.

3. AIR 1963, P&H 203.

వివరణ

మున్ముందు కొనుగోలు చేయ హక్కును Right-of-Pre-emption అంటారు. ఇది మూడు రకములుగా సిద్ధించుహక్కు. ఒకటి Law ప్రకారం హిందు వారసత్వ చట్టం సెక్షను 22 గమనించునది. మరియొక విధమేమనగా సామాన్యముగా ఆచార ప్రకారం ఈయబడు చుండెడి హక్కు. ఇక మూడొది ప్రత్యేకమైన Contract ద్వారా సిద్ధించెడిది. అట్టి హక్కుకు భంగము కలిగించు విధముగ మరియొకరికి విక్రయించి సదరాస్త్రీని actual గా స్వాధీనం చేసినది లగాయతు ఒక సంవత్సరంలోగా దావా చెయ్యాలి. లేకపోతే కాలదోషం పడుతుంది.

స్థిరాస్త్రీని విక్రయించి దస్తావేజు వ్రాయించి రిజిస్టరీ చేయించి యిస్తే అప్పటి నుండే స్వాధీనం చేసినట్లు భావించి కాలదోషాన్ని లెక్కపెట్టవచ్చును.

Description of Suits	Period of Limitation	Time from which Period begins to run
98. By a person against whom an order under Rule 63 or Rule 103 of the Order XXI Code of Civil Procedure. 1908 or an order under Sec. 28 of the Presidency Small Courts Act, 1882 has been made to establish the right which he claims to the property comprised in the order.	One Year	The date of the final Order.

COMMENTARY

This article contemplates three types of orders. From the date of final order made the time granted to file a suit is one year.

Order 21, Rule 63 reads as follows (CP Code) : Where a claim or an action is preferred, the party against whom an order is made may institute a suit to establish the right which he claims to the property in dispute but subject to the result of such suit, if any, the order shall be conclusive.

Rule 103, Order 21 CP Code reads as follows : Any party not being a Judgement debtor against whom an order is made under rule 98, Rule 99 or Rule 101 may institute a suit to establish the right which he claims to the present possession or the property but subject to the result of the Suit (if any) the order shall be conclusive"

Section 28 of Presidency Small Cause Courts Act is as follows :

28. When the Judgment debtor under any decree of the SMALL CAUSE COURT is a tenant of immovable property anything attached to such property and which he might before the termination of his tenancy lawfully remove without the permission of his landlord, shall for the purpose of the execution of such decree (and for the purpose of deciding all questions arising in the execution of such decree) be deemed to be movable property and may if sold in such execution be severed by the purchaser, but shall not be removed by him from the property until he has done to the property whatever the judgement debtor would have been bound to do to it if he had removed such thing.

This article will apply only to suits instituted under Order 21, Rule 103 CP Code¹.

Time begins to run from the date of the final order.

వివరణ

CP Code క్రింద అమలు జరుపుచున్న Proceeding లో Order 21, Rule 63 & Order 63, Rule 103 క్రింద వేయబడిన Order ను Presidency Small Cause Courts Act - Sec 28 క్రింద వేయబడిన Order ను పురస్కరించుకొని వాది తనకు గల హక్కు నిర్ధారణ చేయించుకొనుటకు దావా చేయుటకు గడువు ఒక్క సంవత్సరం అని తెలుసుకోవాలి. Final Order తేదీ నుండి ఒక్క సంవత్సరం.

1. Duraisami vs Sadananda, AIR 1962, Mad 181 FB.

Description of Suits	Period of Limitation	Time from which Period begins to run
99. To set aside a sale by a civil or revenue court or a sale for become arrears of Govenment revenue or for any demand recoverable as such arrears.	One Year.	When the sale is confirmed or would otherwise have

COMMENTARY

This article applies to set aside Sales of three types. The Suit to be filed is to set aside the Sale within one year from the date of confirmation of such Sale.

(1) Sale by a Civil Court.

(2) Sale by a Revenue Court.

(3) Sale for recovery of government Revenue or for any such demand recoverable as such arears. Starting point of limitation will be from the date when the Sale Conducted became final.

వివరణ

సివిల్ కోర్టుగాని, రెవిన్యూ కోర్టుగాని చేసిన Sale విక్రయం. అంతేకాక గవర్నమెంటు రెవిన్యూ వసూలు నిమిత్తం జరిగించే వేలం కాని రద్దు పరిపించమని కోరుచూ దావా చేయుటకు గడువు ఒక్క సంవత్సరం మాత్రమే - విక్రయించబడిన తరువాత Confirmation అయిన ఒక్క సంవత్సరంలోగా గాని లేదా అది Final అయిన తేదీ నుండి గాని Period of one year లెక్కించబడును.

Description of Suits	Period of Limitation	Time from which Period begins to run
100. To alter or set aside any decision or order of a Civil court in any proceeding other than a suit or any act or order of an officer of Government in his official capacity.	One	The date of the final decision or order by the Court or the date of the act or order of the officer, as the case may be case.

COMMENTARY

This article applies to suits to be filed to alter the order of set aside the decision within one year from the date order means final order. The article did not speak about a decree. But the decision contemplated is that of a civil Court or an order of the Officer of Government in his Official Capacity.

Whether or not a Suit is one to set aside an order is to be determined not from the Pleat but from the substance of the Claim¹.

An order in a summary proceeding dismissing a petition on the ground that it raised complicated questions of law and relating the petitioner to a civil suit does not fall under this article².

వివరణ

సివిల్ కోర్టుగాని, తన అధికారంలో ఉన్న Matterపై ఎవరైనా గవర్నమెంటు ఆఫీసరుగాని Pass చేసిన Order పైన లేదా కోర్టు యిచ్చిన తీర్పును - మార్పుచేయమనిగాని రద్దు చేయమనిగాని కోరుచూ Order వేసిన (Final అయిన ఒక సంవత్సరంలోగా దావా చెయ్యాలి లేనిచో కాలదోషం పట్టగలదు.)

1. AIR 71, SC 93.

2. AIR 71 SC 93.

Description of Suits	Period of Limitation	Time from which Period begins to run
101. Upon a Judgment including a foreign Judgment or a recognizance.	Three Years.	The date of the Judgment or recognizance.

COMMENTARY

This article refers to fixation of time to file suits upon a Judgement including a foreign Judgement or a recognizance years from the date of Judgement. When the Court passes a decree which is not executable, the remedy is to file a suit to work out the rights created by the decree. The term Judgement used in this article means a decree of appeal Court it is that appellate Court which is the starting point of limitation¹.

వివరణ

ఏదేశీజడ్జిమెంట్లుపైన Recognizance పైన అమలు జరుపుటకు వీలుపడని డిక్రీలు Pass చేసిన జడ్జిమెంట్లపైన దావాలు చేయుటకు గడువు 3 సంవత్సరాలు. జడ్జిమెంటు అంటే ఆప్ీలు కోర్టు డిక్రీ అని కూడా తెలుసుకోవాలి.

Description of Suits	Period of Limitation	Time from which Period begins to run
102. For property which the plaintiff has conveyed while insane.	Three Years.	When the plaintiff is restored to sanity and had knowledge of the conveyance.

COMMENTARY

It a person convey any property during his insanity after restoring to normally that person can file a suit within three years from the time he has restored to nomolcy to recover possession of the same, Again the person who has conveyed property during insanity and restored to nomolcy he can file the suit within 3 years from the date of Knowledge.

Suit for Recovery of Arrears of Salary Article 102 applies².

వివరణ

ఎవరైనా ఆసామీ తాను పిచ్చి వాడుగా ఉండగా ఏదేని ఆస్తిని అన్యాయంతము చేసిన యెడల ఆ వ్యక్తి తిరిగి మామూలు పరిస్థితి నెలకొన్న మూడు సంవత్సరాలలోగా

1. Baijnath vs Vallabhadas, AIR 1933, Mad 511.

2. AIR 1974 SC 338.

సదరాస్తిని రాబట్టు దావా చెయ్యవచ్చును. అట్టి వ్యక్తికి మామూలు పరిస్థితి నెలకొనినప్పటి నుండి మరియు సదరు అన్యాయక్రంతము గురించి తెలియవచ్చినప్పటి నుండి 3 సంవత్సరాలు గడువు అని తెలియదగును.

Description of Suits	Period of Limitation	Time from which Period begins to run
103. To make good out of the general estate of a deceased trustee the loss occasioned by a breach of trust.	Three	The date of trustee's death or if the loss has not then resulted, the date of the loss.

COMMENTARY

This refers to a suit to be filed against the estate of a deceased Trustee to recover loss occasioned due to breach of Trust. Period fixed is 3 years and time begins to run from the date of the death of the Trustee or the date from which loss is caused.

వివరణ

చనిపోయిన ప్రొఫీ యొక్క ఆస్తి నుండి Breach of Trust వలన సంభవించిన నష్టమును రాబట్టుకొనుటకు దావా చేయుటకు గడువు 3 సంవత్సరాలు. ప్రొఫీ చనిపోయిన తేదీ నుండి గాని లేదా నష్టం వాటిల్లిన తేదీ నుండి గాని మూడు సంవత్సరాలలోగా కలిగిన నష్టం భర్తీ చేయుటకు దావా చెయ్యాలి.

Description of Suits	Period of Limitation	Time from which Period begins to run
104. To establish a periodically recurring right.	Three years	When the Plaintiff is first refused the enjoyment of the right.

COMMENTARY

To file a suit to establish a periodically recurring right, the plaintiff should file the Suit within 3 years from the date when the Plaintiff was first refused to enjoy such right. It must be a periodically recurring right.

A Suit for recovering remuneration for collecting revenue is governed by this article¹.

1. Secretary of State vs Parash Ram, AIR 1934, PC 108.

A suit by a mutawalli for declaration that he is entitled to an annual allowance falls under this article¹.

A Suit for bare declaration without asking for consequential relief in also governed by this article².

It was held that this article also applies to suit brought to recover sums due under periodically recurring right³.

Limitation begins to run from the date when the enjoyment of such right was refused.

ట్రస్ట్, మనోవర్తి

సెటిల్మెంట్ డీడ్ ద్వారా ఆస్తిని యిచ్చి ట్రస్ట్గా ఉంచి మనోవర్తి చెల్లింపుకై పరతు ఉంది.

మనోవర్తి బాకీ వసూలుకు కాలదోషం లేదు.

Creation of Trust - Maintenance Clause : By settlement Deed Trust was created, Maintenance Clause contains payment of Maintenance till the life of Respondent and her Mother settlement deed was interpreted as Trust deed. Maintenance claim is not time barred⁴.

Limitation Adding of LRs in E.P. : D.Hr. died Pending E.P. No time limit for bringing LRs on record⁵.

వివరణ

ఎవరైనా వ్యక్తికి నిర్ణీత సమయాల్లో (Periodically) కలుగుచుండేది హక్కు స్థిరీకరణ నిమిత్తం దావా చేయుటకు గడువు 3 సంవత్సరాలు. సదరు హక్కును పొందకుండా చేసినది లగాయతు కాలాన్ని లెక్కించాలి.

1. Husain Basha vs Secretary of State, AIR 1941, Mad 428.

2. Chalapati Rao vs Venkata Apparao, AIR 1935, Mad 303, Venkat Reddy vs Kishta Reddy, AIR 1965, AP 471.

3. Manivkarna vs Atchyatamenon, AIR 1914, Mad 377 FB.

4. Ranga Rao vs T. Vashamma, 83(2) ALT 114 = (NRC) = 84(1) APLJ, 293 = 84(2) An.W.R. 313.

5. K. Damodara Gupta vs K.V. Rao, 1979 (1) ALT 372 = 79(2) An.W.R. 476.

Description of Suits	Period of Limitation	Time from which Period begins to run
105. By a Hindu for arrears of maintenance	Three Years.	When the arrears are payable.

COMMENTARY

This article refers to a suit to claim arrears of maintenance by a Hindu. Time begins to run from the date when the arrears are payable. The word Hindu means a person governed by Hindu Law. Time fixed is 3 years¹.

Even 12 years after death of husband, if there is no denial of Plaintiff's status as husband Maintenance can be claimed².

వివరణ

ఎవరైనా హిందువు తనకు రావలసిన మనోవర్తి (Arrears) రాబట్టుకొనుటకు దావా చేయుటకు గడువు 3 సంవత్సరాలు.

Description of Suits	Period of Limitation	Time from which Period begins to run
106. For a legacy or for a share of a residue bequeathed by a testator or for a distributive share of the property of an intestate against an executor or an administrator or some other person legally charged with the duty distributing the estate.	Twelve Years.	When the legacy or share becomes payable or deliverable.

COMMENTARY

This article applies to the Suits brought against an Executor or administrator or some other person legally charged with the duty of distributing the estate. A Period of 12 years is provided for a suit for a legacy or for a share for a residue bequeathed by a Testator and also for a distributive Share of the property of intestate. Time begins to run from the date when the legacy becomes payable.

1. Appalakonda vs Chittenna, AIR 1979, AP Page 45.

2. AIR 1979, A.P. 45.

వివరణ

ఎవరిదైనా వీలునామా ద్వారా తనకు దాఖలు పడిన ఆస్తిని రాబట్టుకొనుటకు ఆయా Executor or administrator పై దావా చేయుటకు గడువు 3 సంవత్సరాలు అటులనే intestate గా చనిపోయిన వాని ఆస్తి నుండి రావలసిన వాటా నిమిత్తం పంచిపెట్టవలసిన బాధ్యత కల ఆసామీపై దావా చేయుటకు కూడా గడువు 12 సంవత్సరాలు అని తెలియనగును.

Description of Suits	Period of Limitation	Time from which Period begins to run
107. For possession of hereditary office. EXPLANATION: A hereditary office is possessed when the profits thereof are usually, received or (if there are no profits) when the duties thereof are usually performed.	Twelve Years.	When the defendant takes possession of the office adversely to the plaintiff.

COMMENTARY

The suit contemplated under this article is to recover possession of a hereditary office like archakatvam in a temple like this, Hereditary office means that the office goes from one person to another solely reason of later being heir to the former, The "Office" is comprised of Several duties¹.

Time begins to run from the date when the defendant holds the office adversely to plaintiff.

The Nature of the Suit Contemplated by this article is one for Possession by the Plaintiff who claims to be entitled to the office against one who at the time hold the office himself this article does not apply unless the suit is one for Possession of a hereditary office².

This article does not apply unless the Suit is one for possession of hereditary office. More receipt of Profits of an office without performing its duties is not sufficient to constitute adverse possession of the office³.

1. Jatachariar vs Singarachari, AIR 1928, Mad 377.

2. AIR 1959, S.C. 798.

3. AIR 59 SC 798.

వివరణ

వారసత్వరీత్యా దాఖలు పడే ఉద్యోగం ప్రతివాది వద్ద నుండి రాబట్టు కొనుటకు దావా చేయుటకు గడువు 12 సంవత్సరాలు. వారసత్వరీత్యా వచ్చెడి ఉద్యోగాలు దేవాలయాలలో అర్చకత్వం మొదలగు సేవలు.

Description of Suits	Period of Limitation	Time from which Period begins to run
108. Suit during the life of a Hindu or Muslim female by a Hindu or Muslim who if the female died at the date of instituting the suit, would be entitled to the possession of land to have an alienation of such land made by the female declared to be void except for her life or until her marriage.	Twelve Years.	The date of the alienation.

COMMENTARY

This article applies to Suits where an alienation has to be declared as void except for the life-time of the widow or until her re-marriage.

The Suit contemplated should be filed during the life-time of the female.

The Plaintiff should be either a Hindu or Mohammadan the Suit is for a declaration that the alienation is void.

A right to file a suit vests in the first instance in the presumptive reversioner. After Hindu Succession Act came into force this has no application.

వివరణ

ఒక హిందు స్త్రీగాని, ముస్లిం మహిళగాని చనిపోవుటకు ముందుగా ఏదేని క్రయం జరిగించితే చెల్లకుండా పోవునో అటులనే హిందూ లేదా ముస్లిం వ్యక్తి ఆయా స్త్రీలు చేసిన క్రయములు చెల్లనేరవని క్రయ పరచిన 12 సంవత్సరాలలోగా దావా చెయ్యవచ్చును.

హిందూ వారసత్వ చట్టం అమలులోనికి వచ్చిన పిమ్మట ఇటువంటి దావాలకు ఆస్కారం లేకుండా పోయినదని తెలుసుకోవాలి. హిందూ వారసత్వ చట్టం Section 14

(1) చదువదగినది.

Description of Suits	Period of Limitation	Time from which Period begins to run
109. By a Hindu Governed by the Mitakshara law to set aside his father's alienation of ancestral property.	Twelve Years.	When the alienee takes possession of the property.

COMMENTARY

Except west Bengal, the Hindus in whatever state they are and wherever they are all governed by Mitakshara system of Hindu Law. In west Bengal the Hindus are governed by "Dayabhaga" system of Hindu law.

To Yajñavalkya smṛiti vijñāṇeswara yōgi has written a commentary and that commentary is known as "MITAKSHARA". The literal meaning of mitakshara is with less number of words" great meaning is conveyed.

It is familiar knowledge that to all Hindus governed by mitakshara the son gets a share in the father's by Birth" (Janmana yeva "Sattwa") While under Dayabhaga, during the life time of the father sons do not have any share. It is the saint "JEE MOOT VAAHANA" who is the author of Dayabhaga system of Hindu Law.

This article refers to an alienation made by the father of ancestral property governed by Mitakshara system of Hindu Law the son can question the alienation and if the Sale is not supported by necessity or conferring benefit on the estate the Sale can be avoided. So the Hindu can file a suit to set aside such Sale within 12 years from the date when the alienee takes possession of the property.

Where the plaintiff were not in existence at the time of alienation or on the date when the alienee taking possession of the property are not entitled to avail provisions of Sec 6 of the Act which extends period of Limitation¹.

Alienation includes a Sale as well as a usufructuary mortgage.

Limitation runs from the date when the alienee takes possession the property sold.

1. M. Mutyalu vs M. Appavalingam, AIR 1975, AP Page 19.

వివరణ

మితాక్షర “లా” వర్తించెడి హిందూ కుటుంబములోని వారిలో పిత్రార్జితమైన ఆస్తిని (ancestral) తండ్రి విక్రయించితే సదరు క్రయం చెల్లనేరదని దావా చేయుటకు గడువు 12 సంవత్సరములు. విక్రయించబడిన ఆస్తిని కొనుగోలు చేసిన ఆసామీ సదరాస్తిని స్వాధీనం పొందిన తేదీ నుండి 12 సంవత్సరాల లోపుగా దావా చెయ్యాలి. లేని యెడల కాలదోషం పట్టును.

“మితాక్షర” అనగా యాజ్ఞవల్క్య మహర్షి వ్రాసిన స్మృతికి విజ్ఞానేశ్వర యోగి వ్యాఖ్యానం వ్రాసి దానికి “మితాక్షర” అని పేరు పెట్టెను. దానినే “విజ్ఞానేశ్వరీయం” అని కూడా పిలుస్తారు. ఒక్క పశ్చిమబెంగాల్ (వంగదేశం) రాష్ట్రం తప్ప మిగతా హిందూ దేశంలోని హిందువులందరికీ “మితాక్షరా” యే వర్తించును.

రెండింటికి గల భేదం

మితాక్షర గ్రూపుకు చెందిన కుటుంబాలలో “కుమారుడు” పుట్టగనే తండ్రి ఆస్తిలో వాటా కలిగియుండును. దీనినే Right by birth అని “జన్మనాయే వసత్వ” అని ఈ హక్కును పిలుస్తారు.

తండ్రి జీవితకాలంలో కుమారులకు వాటా పంచి పెట్టమని అడిగే హక్కు “దాయభాగ”లో లేదు. దాయభాగ రచించిన వాని పేరు “జీమూత వాహనుడు”.

Description of Suits	Period of Limitation	Time from which Period begins to run
110. By a person excluded from joint family property to enforce a right to share therein.	Twelve	When the exclusion

COMMENTARY

If a member of Joint family is excluded from taking a share in the joint-family property the excluded member can file a suit to enforce his right share within 12 years from the date of exclusion.

The words joint family property means the property of a Joint family¹.

The article provides for a right to enforce a right (not to establish a right and a claim to obtain actual possession².

1. Anna Rasham vs Zia Ahmed, 13 All. 282 F.B., 23 Bom 337 FB.

2. AIR 1930, Bom 01.

The exclusion contemplated by this article is a continuous and deliberate act amounting to a denial of the right of the particular member concerned.

In the case of a minor who has a guardian, knowledge of the guardian is quite sufficient and the time begins to run from the date of minor's exclusion if the guardian can be shown to have knowledge of it¹.

వివరణ

జాయింటు కుటుంబము నుండి ఎవరైనా మెంబర్ని తొలగించిన యెడల (Exclude చేసిన యెడల) అట్టి మెంబరు తన వాటాను తాను రప్పించుకొనుటకు తన హక్కును అమలు చేయుటకు (to enforce his right) దావా చేయుటకు 12 సంవత్సరములు గడువు ఈయబడినది. తాను తొలగింపుకు గురియైనట్లు వాదికి తెలిసిన తేదీ నుండి గడువు లెక్కింపబడును.

ఎవరైనా మైనరు గార్డియన్ నియమింపబడిన యెడల సదరు గార్డయన్ కు మైనరును exclude చేసినట్లు తెలిసినప్పటి నుండి 12 సంవత్సరముల గడువులోగా దావా చెయ్యాలని గుర్తించాలి.

Description of Suits	Period of Limitation	Time from which Period begins to run
111. By or on behalf of any local authority for possession of any public street or road of any part thereof from which it has been dispossessed or which it has discontinued the possession.	Thirty Years.	The date of the dispossession or dis-continuance.

COMMENTARY

This article refers to suits to be filed by any local authority or against any local authority for possession of any public street or road or any part thereof.

There are two circumstances when cause of action arises to file the suit. Firstly when the plaintiff is dispossessed or when the plaintiff discontinued to use it. The time fixed is 30 years. Time begins to run

1. Sambasiva Rao vs Kanakamma, AIR 1960, AP Page 213.

from the date of dispossession or discontinuance. Municipalities, District Boards, Zilla Parishads do come under the name and style of Local authorities.

వివరణ

ఏదేని Local authority అనగా మున్సిపాలిటీ, జిల్లా పరిషత్, జిల్లా బోర్డు మొదలగు సంస్థలు ఏదేని వీధి లేదా రోడ్డు లేదా వాటిలో కొంత భాగమును గాని తిరిగి స్వాధీనం పొందుటకు దావా చేయుటకు గడువు 30 సంవత్సరములు. Local authority పై దావా చేయుటకు గడువు 30 సంవత్సరములు - ఏదేని వీధినిగాని, రోడ్డునుగాని ఆక్రమించుకుంటే ఆక్రమణ తొలగించి తిరిగి స్వాధీనం పొందు నిమిత్తం దావా చెయ్యవలసి వస్తే గడువు 30 సంవత్సరాలు. ఎప్పటి నుండి అనగా సదరు వీధి లేదా రోడ్డు అంతయుగాని ఏకొంత భాగముగాని స్వాధీనం తప్పినను - నిరుపయోగముగ వదలి వేయబడినను ఆయా తేదీల నుండి లెక్కించబడును.

Description of Suits	Period of Limitation	Time from which Period begins to run
112. Any suit (except a suit before the supreme Court in the exercise of its original jurisdiction) by or on behalf of the Central Government or any state Government, including the government of the State of Jammu and Kashmir.	Thirty Years	When the period of limitation would begin to run under this Act against like a suit by private person.

COMMENTARY

This article contemplates suits to be filed by central government or State government including the state of Jammu and Kashmir. Only the Suits to be filed before the supreme Court are excepted.

The words any Suit by or on behalf of central government must be given their natural meaning and effect¹.

Test is functioning of the organisation².

1. AIR 1962, SC Page 281.

2. Devi Dayal vs State of Andhra Pradesh, AIR 1963, AP Page 479.

Wakf Board or Mutawali is not an agent of Government and a suit instituted by the Board is not one by or on behalf of the Government and is not governed by this Article¹.

There is rational basis for treating the Govt. differently as regards the period of Limitation and it does not offend Article 14².

Wakf Board, Mulkawalli of wakf is not an agent of the Govt. Suit by Board is not governed by this article³.

వివరణ

కేంద్ర ప్రభుత్వం గాని, రాష్ట్ర ప్రభుత్వాలుగాని - జమ్ము - కాశ్మీర్ రాష్ట్రంతో సహా దావా చేయుటకు గడువు 30 సంవత్సరాలు. అయితే సుప్రీం కోర్టులో దాఖలు చేయబడు దావాలకు ఈ article వర్తించదు.

1. AIR 1967, SC 1318.

2. AIR 1961 SC 1704.

3. AIR 1967 SC 1318.

PART X

SUITS FOR WHICH THERE IS NO PRESCRIBED PERIOD

Description of Suits	Period of Limitation	Time from which Period begins to run
113. Any suit for which no period of limitation is provided elsewhere in this schedule.	Three Years.	When the right to sue accrues.

COMMENTARY

This is a residuary article and at the same time it is a general article.

This article provides a period of three years for any Suit for which no period of limitation is provided in the Act. This is intended to provide for omission of any otherkind of Suit.

This article should be applied when the case does not fall under any one of the many articles dealing with specific cases¹.

It was held that this article is applicable to Suits falling under order XXXII Rule 8, CP Code (Act V of 1908)².

A Suit for partition or division of movable properties held jointly or Tenants-in-common by the parties is governed by this article³.

A Suit by a Tenant for recovery of amount incurred by him on repairs of Tenanted premises is governed by this article⁴.

A Suit by Govt Servant for a declaration that an order of dismissal from Service is wrongful, illegal etc., along with a claim for arrears of pay to such a suit this article applies⁵.

A Suit by a Trustee of a Temple against a previous Trustee to recover monies appointed by him, This article applies to such Suits⁶.

1. Swaroop Das vs jogeswar, 26 Cal 564 (FB).

2. Eswarappa vs Krishna Reddy, AIR 1964, AP 99, Ramakrishnayya vs Venkateswarlu, AIR 1976, AP 317.

3. Raghunath Das vs Gokul Chand, AIR 1958, SC 827.

4. Indumati vs Jola, AIR 1985, SC Page 369.

5. Jogeshpal vs UP Govt, AIR 1956, All 114.

6. ANCT Subbaih vs NR Santappa Mudaliyar, AIR 1938, Mad 353 FB.

A Suit to enforce a Pledge¹.

A Suit to recover tax paid under mistake. Suit can be filed under this article².

Suit for Damages against Court for the failure to Provide adequate security in Jail for filing Suit for damages the Period is 3 years from the date when the Right to Sue Accrues³.

Goods Sale - Price Recovery : Limitation for Recovery of Price of goods sold, delivered starts from the date as agreed upon.

This article applies to Suits to which no other article in the Schedule applies⁴.

Agreement for Sale of land obtaining Permission of authorities to use it as Village Site a Pre Condition for execution of Sale deed - Suit for Specific Performance filed in 3 years after obtaining Permission not barred by Limitation⁵.

Suit for recovery of Mortgage Money where the Mortgagee is deprived of his security is one for compensation the Period of Limitation starts from date of destruction of Mortgage Security.

Bailee for Compensation : On account of expenses incurred in storing goods failed⁶.

Suit questioning the validity of an act or order of an officer of Govt would be governed by Article 113 if it does not fall under any other specific article⁷.

Suit for declaration that an order of dismissal or termination from service passed against Plaintiff is illegal, wrongful ultravires is governed by Article 113⁸.

Where a family became divided in Hindu Status and some members sued the others for the share of Movable Property out standings, Collections made by various members - This Article Applies - Time runs from date of demand of the share by Plaintiff⁹.

For recovery of Amount Spent by tenant on repairs Article 113 read with Section 30 Applies¹⁰.

1. *Ideal Bank Ltd vs Pride of India*, AIR 1983, Del 546.

2. *NV Ramaiah vs State*, AIR 1986, AP 361.

3. AIR 2000, SC 2083, *State of A.T. vs Ch.R.K. Reddy*.

4. AIR 1969, SC 843, AIR 1987, SC 1395.

5. AIR. 6, SC 191.

7. AIR 1991, SC 1600.

9. AIR 1958, S.C. 827.

6. AIR 66, SC 275.

8. AIR 91, SC 2219.

10. AIR 1985, S.C. 369.

This article is a general one and applies to suits to which no other article in the schedule applies¹.

Agreement for sale of Land, Obtaining of permission of authorities to use it as village site a precondition for execution of sale deed - Suit for specific performance filed in 3 years after obtaining permission not barred by Limitation².

Refusal of Bank to disallow plaintiff to operate a/c suit filed for damages after 10 years of such refusal is hopelessly barred by time³.

వివరణ

ఇది శేషించిన article. ఏదేని దావా చేయుటకు ఈ చట్టం రీత్యా కాల నిర్ణయం (గడువు - Time) నిర్ణయించి ఉండకపోతే ఆయా దావాలను ఈ article క్రింద దాఖలు చెయ్యవచ్చును. దావా చేయుటకు హక్కు సిద్ధించి నప్పటినుండి 3 సంవత్సరాలలో దావా చెయ్యాలి.

పైన వ్రాయబడిన తీర్పులను గమనించేది.

1. AIR 69 SC 843.

2. AIR 86 SC 1912.

3. AIR 2001 Bombay 267.

SECOND DIVISION - APPEALS

Description of Suits	Period of Limitation	Time from which Period begins to run
114. Appeal from an order of acquittal,--		
(a) Under sub Section (1) or Sub-Section (2) of Section 417 of Code of Criminal Procedure.	Ninety Days	The date of the order appealed from
(b) Under sub - Section (3) of Section 417 of that code.	Thirty Days	The date of the grant of special leave.

COMMENTARY

Under this article if the state government intends to appeal from an order of acquittal, period of limitation 90 days from the date of the order appealed from:

In cases of acquittal on cases instituted on complaint period of limitation is 30 days from the date of special leave granted. There is clear distinction between an appeal prevented by state and in other cases filed on complaints.

The words contained in section 12 of of the Act "time requisite for obtaining a copy of the decree" mean the time beyond the party is control occupied in obtaining the copy of decree which is filed with memorandum of appeal and not in ideal lessen period which might have been occupied if the application for on some other day¹.

వివరణ

ఎవరేని ముద్దాయిని నిర్దోషిగా ఎంచి వానిపై కేసు కొట్టివేసినయెడల ముద్దాయిని acquit చేయుదురు. దానిపై గవర్నమెంటు అప్పీలు చేయుటకు గడువు 90 రోజులు.

అదే డిక్రీపై ఇతరులు అనగా Complaint పై విచారణ జరిగి ముద్దాయిని విడుదల చేసినచో అందుపై అప్పీలు చేయుటకు గడువు 30 రోజులు మాత్రమే. Special leave ఇచ్చిన నాటినుండి 30 రోజులు గడువు అని తెలుసుకోవాలి.

1. Panyam Tirumala Anavema Reddy vs State, AIR 1934 Mad 306 FB.

Description of Suits	Period of Limitation	Time from which Period begins to run
115. Under the Code of Criminal Proceedure,		
(a) From a sentence of death passed by Court of Session or By a High Court in the Exercise of its Original Criminal Jurisdiction.	Thirty Day	The date of Sentence
(b) From any other Sentence or any other order not being an order of Acquittal.		
(i) to the High Court	Sixty Days	The date of the Sentence or order.
(ii) to any other Court	Thirthy Days	The date of the Sentence or order.

COMMENTARY

All the three types of appeals contemplated are as provided under the code of Criminal procedure.

If the sentence or death is passed by a court of session then an appeal lies to High court and the appeal shall be filed within thirty days from the date of passing the sentence. The same period applies to a sentence passed by High Court in its Original criminal jurisdiction.

In the case of any other sentence which means the punishment is lesser than death sentence when the appeal lies to High court for filing an appeal 60 days time is given.

Time begins to run from the date of sentence or order.

In any other case other case the time for preferring the appeal is 30 days from the date of sentence or order.

వివరణ

ఏ దేని సెషన్సుకోర్టు ముద్దాయిపై మరణ శిక్ష విధిస్తే సదరు Sentence పైన మరియు హైకోర్టుకు eniminal ద్వారా మరణశిక్ష విధింపబడినను అందుపై అప్పీలు 30 రోజులలోగా చెయ్యాలి.

మరే యితర కోర్టు పాస్ చేసిన Sentence లేదా Order పై హైకోర్టుకు అప్పీలు చేయుటకు, విడుదల చేయబడిన ఆర్డర్ పై కాక (not against order of acquittal) గడువు 60 రోజులు అని తెలుసుకోవాలి.

మరే యితర కోర్టుకైనా Sentence లేదా ఆర్డర్ పై అప్పీలు చేయుటకు గడువు 30 రోజులు మాత్రమే.

Description of Suits	Period of Limitation	Time from which Period begins to run
116. Under the Code of Civil Procedure, 1908		
(a) to the High Court from any decree or order;	Ninety days	The date of the sentence or order
(b) to any other court from any decree or order	Thirty days	The date of the decree or order

COMMENTARY

In the code of civil procedure Act V of 1908 order 41 rule 1 deals with preferring appeals from any decree or order when the appeal lies to High court time for preferring the appeal is 90 day from the date of the decree or order.

When an appeal lies to any other court the time for preferring such appeal from the decree or order.

When an appeal lies to High court from order under any other enactment the time is 90 days. To illustrate from an order under land acquisition Act.

Under section 28 of Hindu marriage Act, the time for preferring an appeal is 30 days only.

For preferring a second appeal to High court time granted is 90 days and not 30 days¹.

it was held that limitation should be completed from the date of decree and not on the basis on date of Judgement.

వివరణ

C.P. Code కోడ్ ప్రకారం ఏదేని డిక్రీ లేదా ఆర్డరు పై హైకోర్టుకు అప్పీలు చేయుటకు గడువు 90 రోజులు. ఈ గడువు లెక్కపెట్టుట డిక్రీలేదా ఆర్డరు తేదీనుండి అని

1. Indrajai vs Shanti, AIR 1978 All 279, Inperappa vs Basamma, AIR 1981 Karnataka Page 16.

తెలుసుకోవాలి. Certified copy of decree తీసికొనుటలో కలిగిన ఆలస్యం గణించబడదు.

ఏ ఇతర కోర్టులైనా డిక్రీ లేదా ఆర్డరు తేదీ నుండి 30 రోజులలోగా అప్పీలు చెయ్యాలి.

హైకోర్టుకి సెకండ్ అప్పీలు చేయుటకు కూడా గడవు 90 రోజులే.

Description of Suits	Period of Limitation	Time from which Period begins to run
117. From a decree or order of any any High Court to the same Court.	Thirty Days	The date of the decree or order

COMMENTARY

To prefer an appeal against any decree or order of the High Court to the same court time granted in 30 days.

It may be remembered that against the judgement and decree or a single Judge of the High Court an appeal lies to two Judges. Popularly it is known as letters patent appeal. The appeals are also filed according to Act 226 of the constitution of India. An appeal from a single Judge of Judgement in writ proceedings an appeal can be filed against the said Judgement before two judges as "Writ Appeal" and the time granted under this article is 30 days only¹.

వివరణ

హైకోర్టు జడ్జిమెంటు డిక్రీనుండి అదే కోర్టుకు అప్పీలు చేయుటకు గడువు 30 రోజులు మాత్రమే. హైకోర్టు డిక్రీ జడ్జిమెంటు తేదీ నుండి 30 రోజులు అని తెలియదగును.

రిట్ దరఖాస్తులపై ఒకే జడ్జి తీర్పుపై రిట్ అప్పీలు దాఖలు చేయుటకు కూడా గడువు 30 రోజులు మాత్రమే.

1. Sivarama Prasad vs State of AP, AIR 1960 AP 304.

Description of Suits	Period of Limitation	Time from which Period begins to run
118. For leave to appear and defend a suit under summary procedure.	Ten Days	When summons is served.

COMMENTARY

Under civil procedure code act V of 1908 order XXVII deals with suits filed under summary procedure. To appear and leave to defend such a suit time granted to defendant is 10 days only. The leave to defend such a suit is Ten days from the date of service of summons.

వివరణ

C.P. Code (Act V of 1908) లో order XXVII అనునది కలదు. అది Summary procedure అనబడుతుంది. దాని ప్రకారం సమన్లు ప్రతివాదికి పంపితే సదరు సమన్లు అందిన పదిరోజులలోగా ప్రతివాది కోర్టు ఎదుట హాజరై తాను డిఫెండ్ చేసికొనుటకు అవకాశం ఇప్పించమని దరఖాస్తు చెయ్యాలి. అట్టి ధరఖాస్తు చేసికొనుటకు గడువు సమన్లు అందిన పది రోజులు మాత్రమే అని తెలుసుకోవాలి.

Description of Suits	Period of Limitation	Time from which Period begins to run
119. Under the Arbitration Act, 1940--		
(a) For the filing in Court of an award;	Thirty Days	The date of service of notice of the making of the award;
(b) For setting aside an award or getting an award remitted for reconsideration.	Thirty Days	The date of Service of notice of the filing of the award.

COMMENTARY

For filing an award into court 30 days time is granted from date on service of Notice.

Again for setting aside an award to for sending talk to reconsider time granted in 30 days. The award and Arbitration proceedings are governed by the Arbitration Act 1940. Arbitrator is a choosen judge by

the parties. The award, should he made a decree of the court. Else it will not have any effect.

Notice contemplated is the notice to the given by the court.

Under clause (b) of the Article limitation begins to run for filing objections from the date of service of notice of filling of the award and not from the date of award¹.

The provision of notice under sec. 14(2) is not mandatory and that its non-compliance would not render the award invalid and that provision of service relevent to compute period of limitation under Act 119².

The 4 word notice used in section 14(2) may also mean an informal information by which a party may have by which a party may take knowledge of the matter³.

Even in absence of notice required to be served under section 14(2) of Arbitration Act if a party had knowledge of filing of the award that would be sufficient compliance⁴.

Section 5 of the Limitation Act applies to applications which come under Act 137 for the petitions to the filed under section 20 of the Arbitration Act⁵.

There is no special form prescribed for making an application for setting aside an award, in appropriate cases an objection may be be treated as such an application if it is filed in period of Limitation⁶.

Limitation commences from service of notice and not from subsequent date on which notice under section 14(2) of Arbitration Act was issued⁷.

నివరణ

ఈ article Arbitration Act లోని Provisions ప్రకారం Arbitrator చేత award దాఖలు చేయించుటకు - సదరు award కోర్టులో దాఖలు అయినట్లు పార్టీలకు నోటీసు ఇచ్చుటకు గడువు 30 రోజులుగా నిర్ణయింపబడినది.

1. Am. H. Rehman vs A. Varma, AIR 1974 AP Page 113.

2. AIR 1958, A.P. Page 497.

3. Nilkantha vs Kasinath, AIR (1962) SC Page 666 = 1962 (1) ANWR, SC Page 263 .

4. Ballaram George vs K. Lingaiah, AIR 1961, AP Page 457.

5. Govt. of A.P. vs Durgaram Prasad., AIR 1984, AP Page 14.

6. AIR 1967 SC 1233.

7. AIR 1988 SC 2054.

Arbitrator ఇచ్చిన award కోర్టు ద్వారా డిక్రీ అవాలి. అందు నిమిత్తం పార్టీలు అభ్యంతరాలు దాఖలు చేయునిమిత్తం కోర్టు నోటీసు యిచ్చిన 30 రోజులలోగా సదరు awardను set aside చెయ్యమనిగాని లేదా arbitrator ను పునఃపరిశీలించమని award ను తిరిగి పంపమని కోరుటకు గడువు 30 రోజులు అని తెలియదగును.

Description of Suits	Period of Limitation	Time from which Period begins to run
120. Under the Code of Civil Procedure, 1908, to have the legal representative of a deceased plaintiff or appellant or of a deceased defendant or respondent made a party.	Ninty Years.	The date of the death of the plaintiff-appellant, defendant or respondent as the case may be.

COMMENTARY

To bring the legal representative of the deceased plaintiff or defendant or appellant or Respondent in a pending suit, appeal or application the time fixed is 90 days to be reckoned from the date of death of the plaintiff Appellant, Defendant or Respondent as the case may be.

It was held that provisions or order XXII will apply to the proceedings on a reference under Section 18 of Land Acquisition Act and the application has to be moved within time¹.

Where some of the legal representative of the deceased are already on record, application by the remaining legal representative would be governed by residuary article 137 and not by this article².

Where a plaintiff or an appealant after diligent and bonafide enquiry ascertains who the legal representatives of the deceased defendant respondent are and brings them on record in time limited by Law, there is no abatement of Suit or appeal that the impleaded legal representatives sufficiently represent the estate of the deceased and that a decision obtained with them on record will bind not merely there impleaded but the entire estate including those not brought on record³.

1. *Mst Ram Pyari vs Union of India*, AIR 1978, Del 129 FB.
2. *D. Ammannamma vs Ram Reddy*, AIR 1978, AP 410.
3. *Daya Ram's Case*, AIR 1965, SC 1049 = 1965 (2) ALT 147.

Apart from the time prescribed by the Limitation Act, the Court has no power to add legal representatives. The Court is not to invoke its inherent powers under Section 151 of the Code of Civil Procedure Act V of 1908 for the purposes of impleading legal representatives of a deceased defendant of respondent as the case may be¹.

The Code of Civil Procedure do not apply to writ Proceedings. The explanation added to Section 141 CP Code.

Time begins to run from the date of death of the plaintiff appellant of defendant of Respondant as the Case may be.

The benefit of Section 5 of the Limitation Act can be extended to an application under Order XXII Rule 9 CP Code².

AP High Court followed the above decision of supreme court³.

Death of Parties - Adding L.Rs : Sole Plaintiff died, application filed by a person to add him as 2nd Plaintiff filed in 90 days of death allowed. Wife filed Petition to add her as Party as the Suit is not abated, the Petition can be allowed⁴.

Tax Refund : Petition for refund of tax made under mistake of law is competent when such petition filed promptly and deligently after the decision of high court that assessment of tax and its recovery was without jurisdiction, there is no question of the Petition being barred by Limitation⁵.

తెలగు వివరణ

ఎవరైనా మరణించిన వాది యొక్క లేదా అప్పెలేంటు లేదా ప్రతివాది లేదా రెస్పాండెంటు యొక్క వారసులను Civil Procedure Code ప్రకారం ఆయా వ్యవహారములలో పార్టీలుగా చేర్పించుటకు గడువు 90 రోజులు, వాది లేదా అప్పెలేంటు లేదా ప్రతివాది లేదా రెస్పాండెంటు మరణించిన తేదీ లగాయతు వాని వారసులను చేర్పించమని కోరుకు మరణించిన తేదీ లగాయతు 90 రోజులలో పిటీషను దాఖలు చెయ్యలి ఆ ప్రకారం వారసులను చేర్పించకపోతే ఆ దావాగాని అప్పీలుగాని abate అవుతుంది. అంటే వ్యర్థం అయిపోతుంది. CP Code Order XXII చూచునది. పైన వ్రాయబడిన తీర్పులు గమనించునది.

1. Union of India vs Ram Charam, AIR 1964, SC Page 215.

2. Union of India vs Ram Charan, AIR 1964, SC 215.

3. Food Corporation of India vs B. Rama Chandra B & R Rice Mill, AIR 1985, AP Page 23

4. 92(2) ALT 547.

5. AIR 1990, S.C. 772.

Description of Suits	Period of Limitation	Time from which Period begins to run
121. Under the same code for an order to set aside an abatement.	Sixty Days.	The date of abatement

COMMENTARY

This article provides a period of sixty day to file an application to get an order of abatement set aside. In a suit or in an appeal if the plaintiff, appellant or Respondent dies, Under article 120 a period of 90 day is prescribed to bring the Legal Representatives on record. If no legal representative is brought on record the Suit or the appeal would abate. In order to set aside an abatement an application has got to be filed and it should be filed within 60 days from the date of abatement. The abatement would be set aside if there is sufficient cause¹.

Limitation begins to run from the date of abatement.

వివరణ

మరణించిన పార్టీ యొక్క వారసులను నిర్ణీత కాలంలో చేర్చక పోయిన కారణం చేత దావాగాని ఆప్పీలుగాని abate అయినట్లయితే సదరు abatementను తొలగించమని పిటీషను దాఖలు చెయ్యవచ్చు. అట్టి పిటీషను దాఖలు చేయుటకు గడువు 60 రోజులు. abate అయిన తేదీ నుండి లెక్కించవలసి యుండును కాలనిర్ణయం.

Description of Suits	Period of Limitation	Time from which Period begins to run
122. To restore a suit or appeal or application for review or revision dismissed or default of appearance or for want of prosecution or for failure to pay costs of service or process or to furnish security for costs.	Thirty Days	The date of Dismissal.

COMMENTARY

This article relates to filing an application to restore a suit, or appeal, or an application for review or revision which were dismissed for default of appearance or want of prosecution or for failure to pay

1. Firm Dittu Ram vs Om Press co., AIR 1950, Punj. 335 (FB).

costs of service of process of furnish security for costs :

Its application is wide enough to take several proceedings into its gold irrespective of whether they arise in civil or criminal proceedings :

A Suit	Any of those liable to be
An appeal	dismissed for default of
An application for review	appearance :
An application for revision.	

May also be dismissed for want of prosecution may also be dismissed for Non-Payment of costs of service of process and also in the event of failure of furnish security of costs :

In the event of dismissal of the above said suit, appeal, application for review of Revision for any of the above said reasons the aggrieved party say plaintiff or appellants or the petitioner is given 30 days time from the date of dismissal of the above causes of set aside dismissal order and to restore them to file.

"For want of prosecution" includes a dismissal of appeal after an application by a pleader for an adjournment who is instructed to apply only for an adjournment and it is refused¹.

The appeal was dismissed under Order 41 Rule 10 (2) of CP Code when the plaintiff failed to furnish security for costs. The plaintiff applied for restoration of appeal under Order 41 Rule 19 (1) of CP Code. It was held that such application falls within the purview of this article².

An appeal was dismissed for partial non-compliance of a peremptory order. An application was filed under Sec 151 of CP Code to restore the same to file. Held that the appeal shall be treated as dismissed for want of prosecution and that this article is applicable³.

The inherent powers of the Court are not controlled by provision of CP Code and nothing in the code should be deemed to limit or otherwise affect the inherent powers of the Court to make orders recovery for the ends of Justice⁴.

It was held that delay in filing the application under Or IX Rule 9 CP Code could not be condoned under the old Code but it can be condoned under the New Limitation Act (1963)⁵.

1. SC Mukerjee vs AP Mukherjee, 34, Cal 403 FB.

2. Sirun vs Mythili Ammal, AIR 1932, Mad 170.

3. Bimla Devi vs Pattapiban Devi, AIR 1973, Ori 169 FB.

4. Padan Sen vs State of UP, AIR 1961 SC 218 = 1961 (2) AN WR (SC) 22.

5. Abdul Kalam vs Sakina Khatoon, AIR 1967, Pat 366.

Limitation starts from the date of dismissal and not from the date of Knowledge of Plaintiff.

వివరణ

ఏదేని దావానుగాని, అప్పీలు లేదా రివ్యూ నిమిత్తం పిటిషన్ గాని లేదా రివిజన్ పిటిషన్ గాని

వాది యొక్క లేదా

దావాగాని

అప్పెలెంటు యొక్క లేదా

అప్పీలుగాని

పిటిషనర్లు

పిటిషను గాని

రివ్యూ - రివిజన్ లో యొక్క

ఈ క్రింది కారణములచే dismiss చేయబడితే వాటిని తిరిగి fileలో వేయించమని కోరుటకు restore నిమిత్తం - సదరు దావా లేదా అప్పీలు - లేదా పిటిషన్లు dismiss చేయబడిన తేదీ లగాయతు 30 రోజులలో ధరఖాస్తు చెయ్యాలి - లేనిచో కాలదోషం పట్టును.

ఏదేని కారణములచే dismiss చేయబడి ఉండవచ్చుననగా!

వాది లేదా

Default

అప్పెలెంటు లేదా పిటిషనర్ల యొక్క

అనగా గైర్ హాజరగుట చేతను

లేదా సక్రమంగా నడిపించు కోకపోవుట చేత (for want of Prosecution) లేదా సమన్లు మొదలగునవి అమలు జరుపుటకు Process చెల్లించని కారణం చేత లేదా ఈయవలసిన ఖర్చులకు Security సకాలంలో ఈయక పోయినందువలన సదరు దావా అప్పీలు - పిటిషన్లు dismiss కాబడ వచ్చును. అట్టి వాటిని Restore చేయించుకొనుటకు దాఖలు చేయు ధరఖాస్తు dismissal తేదీ నుండి 30 రోజులలో దాఖలు చెయ్యాలి. లేనిచో కాలదోషం పట్టును.

పైన వ్రాయబడిన తీర్పులను గమనించేది.

Description of Suits	Period of Limitation	Time from which Period begins to run
123. To set aside a decree passed <i>ex parte</i> or to rehear an appeal decreed or head <i>ex parte</i> . Explanation- for the Purpose of this Article substituted service undr Rule 20 or Order V of the Code of Civil procedure, 1908, Shall not be deemed to be due service.	Thirty Days.	The date of the decree or where the summons or notice was not duly served, when the applicant had knowledge of the decree.

COMMENTARY

Where a decree is passed *ex parte* or an appeal was heard *ex parte* - to set aside the *ex parte* decree an application has got to be filed to restore them to file. For filing such application time given in 30 days from the date of decree of when the summons was served or when the application had the knowledge of the decree.

It is made clear that substituted service shall not be deemed to be due service as mentioned in Order V Rule 20 of CP Code Act V of 1908.

For the purpose of utilizing the provisions of this article it is not necessary to determine whether an application by defendant for an order to set aside an *ex parte* decree is made by virtue of Order IX Rule 13 CP Code or apart from it¹.

Where summons are duly served limitation or 30 starts from the date of the decree and not from the date of knowledge of the decree².

Knowledge becomes a material factor only when the summons or notice was not duly served³.

The expression knowledge of the decree means knowledge of particular decree which is sought to be set aside when summons was not duly served limitation does not start running against the defendant because he has received some vague information that some decree has been passed against him. The test of sufficiency is not what the information would mean to a stranger but what it meant to the defendant⁴.

1. *Abid Ali vs Prabulla Kumar.*, AIR 1952, Cal 544 FB.

2. *Mst Bibi vs Gopi*, AIR 1953, Pat 399.

3. *Parasurama vs Appa Durai*, AIR 1970, Mad 271 FB.

4. *Pannalal vs Muralilal*, AIR 1967, SC 1384.

When the Court rejects the application stating that the application filed for setting aside the ex parte decree is barred by limitation its order is illegal¹.

An application for setting aside an ex parte decree is now within the ambit of Section 5 of the present Limitation Act 1963².

A Vague suspicion that the defendant must have heard of some decree is not enough to dismiss his petition on the ground that it is barred by Limitation³.

వివరణ

ప్రతివాదిపై Pass చేసిన ex parte decree రద్దు చేయించమని కోరుటకు - ex parteగా విని అప్పీలు ex parte decree ఇచ్చిన సందర్భములోను సదరు Ex parte decree లను రద్దు పరచమనియు సదరు అప్పీలును తిరిగి వినవలెననియు కోరుచు ధరఖాస్తు దాఖలు చేయవచ్చును. పై ప్రకారం Ex parte decree లను Set aside చేయించమని కోరుటకు గడువు డిక్లీ తేదీ నుండిగాని సదరు ex parte decree pass అయినట్లు తెలిసిన తేదీ నుండి గాని (Knowledge) 30 రోజులలోగా దాఖలు చెయ్యలి. లేనిచో కాలదోషం పట్టును.

ఇందలి Explanation ప్రకారం Substituted Serviceను due Serviceగా పరిగణించరు. substituted Service అనగా - ప్రతివాది కాపురమున్న లేదా చివరిగా కాపురమున్న ఇంటి తలుపుకు గాని గోడకు గాని దావా సమన్లు అతికించుట ఒక పద్ధతి. లేదా ప్రతివాది నివసించుచున్న గ్రామంలో విశేషంగా ప్రచారంగల పత్రికలో ప్రచురణ చేయించడం మరో పద్ధతి. గ్రామం చిన్నదైతే దండారా మూలంగా తెలియజేయడం.

1. B. Ramalingam vs S. Badhaiah. AIR 1979, AP Page 180.

2. Kachu vs Cholon, AIR 1966, Pat 381.

3. AIR 67 SC 1384.

Description of Suits	Period of Limitation	Time from which Period begins to run
124. For a review of judgment by a Court other than the Supreme Court.	Thirty Days.	The date of Decree in order.

COMMENTARY

This article provides 30 days time to file an application to review the decree or order passed by that Court except Supreme Court.

Review means a Rehearing of the same matter.

This article is restricted to application for review under the Code of Civil Procedure Act V of 1908. "Review" definition given below.

వివరణ

ఏదేని Court Pass చేసిన డిక్రీని జడ్జిమెంటును తిరిగి వినవలసినదిగా కోరుచు పిటిషన్ దాఖలు చేయవచ్చును. అట్టి పిటిషను దాఖలు చేయుటకు ఆ దావాలో డిక్రీ Pass చేసిన 30 రోజులలోగా దాఖలు చెయ్యలి.

Review :

Under Section 114 of the Code of Civil Procedure Act V of 1908 Review is defined as follows :

114 Subject as aforesaid any person considering himself aggrieved

(a) by a Decree or an order from which an appeal is allowed by this code, but from which no appeal is preferred;

(b) by a Decree or order from which no appeal is allowed by this Code 02.

(c) by a decision reference from a court of small causes may apply for a review of judgement to the Court which passed the decree or made the order and the Court may make such order there on as it thinks fit,"

The Scope of review is very much narrow.

Description of Suits	Period of Limitation	Time from which Period begins to run
125. To record an adjustment or satisfaction of a decree.	Thirty Days.	When the payment or adjustment is made.

COMMENTARY

To file an application to record an adjustment or satisfaction of a Decree 30 day time is allowed. Limitation starts from the date on which payment or adjustment is made.

This article applies to the action taken by the J.Dr. under Order XXI Rule 2(2) CP Code and does not apply to certification by the DHR as the DHR can certify such payment even after the period of limitation¹.

This article 125 would apply to adjustment or satisfaction of all kinds of decrees irrespective of their nature of class².

An application made by the Judgement debtors under Section 47 and order XXI Rule 2 before the trial Court to the effect that in pursuance of the terms of compromise they had constructed a House within the stipulated time and given delivery of possession thereof to the Respondents, but with an ulterior motive the Decree - holders have not taken possession of the house and left it vacant and hence prayed that full satisfultion or the decree be granted is governed by this article³.

వివరణ

డిక్రీ అయిన వ్యవహారం adjustment అయినదని గాని లేదా పూరాపరిష్కారం అయినదని గాని కోర్టులో రికార్డు చేయించమని కోరుచు పిటిషన్ దాఖలు చేయుటకు adjustment అయిన తేదీ నుండిగాని, పూరా పరిష్కారం అయిన తేదీ నుండి గాని 30 రోజులు గడువు అని తెలుసుకోవాలి.

1. Bas alingappa vs Kaban, AIR 1962, Mys 100, Vidyadhan vs Razan, AIR 1952, All 715 FB.
 2. Dhani Behera vs Sunil Chandra, AIR 1967, Ori 59.
 3. Mudegowda vs Gun ganna, AIR 1963, Mys 79.

Description of Suits	Period of Limitation	Time from which Period begins to run
126. For the payment of the amount of a decree by instalments.	Thirty Days.	The date of the decree.

COMMENTARY

It may be seen that under Order XX Rule 11 Civil Procedure Code after passing a decree for payment of money on an application filed by the Judgement - debtor and with the consent of Decree holder, the Court may direct payment of amount decreed in such instalments as it thinks fit. For making such an application the time allowed in 30 days from the date of passing the Decree.

Application to pass Instalment Decree to be filed in 30 days of Passing Decree¹

Decree for Possession of Land can be executed within 12 years as per Article 136 of Limitation Act².

An application for an order for Postponement of the decree is not within this Article³.

Application seeking permission to pay decretal amount in instalments should be filed in 30 days from date of decree else it is time barred⁴.

వివరణ

ఏదైనా కోర్టు Money Decree Pass చేసినట్లయితే సామ్మూ ఈయవలసిన ఆసామీ (J.Dr) డిక్రీ ఈయబడిన 30 రోజులలోగా - ఏ కోర్టు డిక్రీ Pass చేసినదో ఆ కోర్టులోనే - నడరు డిక్రీ కాబడిన సామ్మూ వాయిదాల పద్ధతిని తీర్చుటకు Order ఇప్పించమని కోరవచ్చును. CP Code Order 20 Rule 11 ప్రకారం కోర్టు అట్టి ఆర్డరు వేయుటకు అధికారం కలదు.

1. MSVK Prasad vs Chalapathi Enit Fund (P) Ltd, 2001 (3) ALT 318 = 2001 (3) ALD 388.

2. Deepchand vs Mohan Lal, AIR 2000, SC 1760.

3. AIR 68 SC 1087.

4. AIR 2001 AP 388.

Description of Suits	Period of Limitation	Time from which Period begins to run
127. To set aside sale in execution of a decree, including any such application by a judgement debtor.	Sixty Days.	The date of Sale.

COMMENTARY

This relates to an application to be filed to get a sale conducted by execution Court set aside. Auction purchase or the Judgement debtor who - ever application within 60 days from the date of Sale.

Prior to amendment of Civil Procedure Code and the Limitation Act in the year 1976, the period to file a petition to set aside the Sale was 30 days. The amended Act came into force from 10-9-1976 and the period was extended to 60 days. This article applies to Sales conducted under order XXI Rule 21, 89, 90 and 91 of the Code of Civil Procedure Act V of 1908.

Time begins to run to file an application from the date of Execution Sale.

An application to set aside a Court sale on ground of non-service of Notice on J.Dr under Order XXI Rule 66(2) falls under Order XXI Rule 90 and as such is governed by this article (127) and not article 137, since, the Rule 66(2) Order XXI is disectory and not manadatory¹.

Setting Aside Sale : Petition to set aside Sale and Making Deposit within 60 days. Court has diseration (Power) to set aside Sale².

Where Sale is not void but is only voidable, it can be avoided by means of an application to set it aside and such application must be made within 30 days for declaration that Sale was void must be brought within 3 years of Accrual of right to apply³.

Application to aside Sale to be filed in 60 days of Sale⁴.

1. V. Satyanarayana Murty vs Bhava narayana, AIR 1957, AP 185, F.B., Gowda menon vs Nekey, AIR 1971, Ker 8 FB.

2. D. Jagannadham vs J. Ramulu, 2001 (5) ALT 17.

3. AIR 1956, S.C. 87.

4. Jagati Thimmaraju vs Uppluri btshmsnns, 98(3) ALT 266 = 98(3) ALD 404 = 98(1) LS 642.

వివరణ

ఏదేని ఆస్తి అమలు గ్రంథములో (Executin proceedings) వేలం వేయబడితే - Judgement debtorతో సహా - కోర్టు వేలంలో పాడుకొనిన ఆసామీగాని సదరు వేలం రద్దు చేయించమని వేలం జరిగిన 60 రోజులలో పిటీషను దాఖలు చేయవచ్చును. లేని యెడల కాలదోషం పట్టును. Execution Sale అనగా CPC Order XXI Rules 21, 89, 90 and 91 ప్రకారం జరిగించబడిన Sales అని తెలుసుకోవాలి. పైన వ్రాయబడిన తీర్పులను గమనించేది.

Description of Suits	Period of Limitation	Time from which Period begins to run
128. For possession by one dispossessed of immoveable property and disputing the right of the decree-holder or purchaser at a sale in execution of a decree.	Thirty Days.	The date of the Dispossession.

COMMENTARY

It enables any person who has been dispossessed from immovable property to file an application for restoration of possession disputing the right of the decree-Holder and Court-auction purchaser. The time granted is 30 days from the date of dispossession.

వివరణ

ఎవరైనా ఆసామీని స్థిరాస్తి నుండి తొలగింపబడిన యెడల (Dispossessed) తిరిగి సదరాస్తిని తనకు స్వాధీనం ఇప్పించమని తొలగింపబడిన 30 రోజులలో కోర్టుకు ధరఖాస్తు దాఖలు చెయ్యాలి. తొలగింపబడిన ఆసామీ డిక్రీ హోల్డరుకు గాని కోర్టు వేలంలో పాడుకొనిన ఆసామీకి గాని తాను తొలగింప బడిన స్థిరాస్తి యందు హక్కు లేదని తగవు పరుచువాడై యుండవలెను.

Description of Suits	Period of Limitation	Time from which Period begins to run
129. For possession after removing resistance or obstruction to delivery of possession of immovable property decreed or sold in execution of a decree.	Thirty Days.	The date of resistance or obstruction.

COMMENTARY

A Period of 30 days is granted under this article for an application for possession after removal of obstruction to delivery of immovable property decreed or sold in execution of a decree from the date of resistance or obstruction to delivery. The auction purchases of immovable property in a Court Sale who was resisted or obstructed to get delivery of the property has got a right under Order XXI Rule 97 to apply to the court for removal of resistance or obstruction and to file such application for removal obstruction period fixed is 30 days from the date of resistance or obstruction.

When the Judgement creditor fails to apply for removal of an obstruction under Order 21 Rule 97 within 30 days he is not defanded from making an application under Order XXI Rule 35 to obtain a fresh warrant of possession Art 167 (Under the old Act) has nothin to do with such an application for warrant for possession, but will be applicable not with standing fresh order for possession to a subsequent applications in respect or the same obstruction¹.

వివరణ

ఏదేని స్థిరాస్తిని డిక్రీ పొందిన ఆసామీగాని, కోర్టు వేలం ద్వారా కొనుగోలు చేసిన ఆసామీగాని సదరాస్తి స్వాధీనం పొందుటలో ఎదురైన అభ్యంతరం గాని, త్రోసిపుచ్చుటగాని ఎదురైనచో అట్టి అభ్యంతరాన్ని, త్రోసిపుచ్చుటను, తొలగించి సదరాస్తి తనకు స్వాధీనం ఇప్పించమని కోరుచు 30 రోజులలోగా కోర్టులో పిటీషను దాఖలు చెయ్యాలి.

1. Mukund Babu jatav vs Tanu Saku Pawar, AIR 1933, Bom 457 FB.

Description of Suits	Period of Limitation	Time from which Period begins to run
130. For leave to appeal as pauper :		
(a) to the High Court	Sixty Days.	The date of decree appealed from.
(b) to any other Court	Thirty Days.	The date of decree appealed from.

COMMENTARY

Order 33 Rule 1 of CP Code : R.I Subject to the following provisions any suit may be instituted by a pauper.

Explanation : A person is a "Pauper" when he is not possessed of sufficient means to enable him to pay the fee prescribed by law for the plaint in such suit, or, where no such fee is prescribed, when he is not entitled to property worth one hundred rupees other than his necessary wearing - apparel and the subject - matter of the suit.

Explanation to Order 33 Rule 1 defines "Pauper" who is now called an indigent person.

A period of 60 day is provided under this article for leave to appeal as a pauper to the High Court and a period of 30 days for applications for leave to appeal as a pauper to any other Court.

వివరణ

ఎవరైనా ఆసామీ ఏదేని హైకోర్టుకు పాపరుగా అప్పీలు చేసికొనుటకు ధరఖాస్తు పెట్టుటకు డిక్రీ తేదీ లగాయతు 60 రోజుల మాత్రమే. మరే ఇతర కోర్టుకైనా పాపరుగా అప్పీలు చేయుటకు Permission కోరుటకు డిక్రీ తేదీ లగాయతు 30 రోజులు మాత్రమే.

Description of Suits	Period of Limitation	Time from which Period begins to run
131. To any Court for the exercise of its powers of revision under the Code of Civil Procedure, 1908 or the Code of Criminal Procedure.	Ninty Days.	The date of the decree order of sentence to be revised.

COMMENTARY

This article provides 90 days time to file a Revision either according to Civil Procedure Code Act V of 1908 or under criminal procedure Code 1973. Section 115 of C.P. Code mentions the grounds on which a Revision can be filed.

As the provincial small Cause Courts Act Sec 25 Act of 1887 did not provide any period of limitation to file a Revision to High Court this article is applicable to such Revisions under this article period of limitation is 90 days from the date of passing the Decree or sentence and added. Under this article period of limitation is 90 days¹.

వివరణ

C.P. Code Act V of 1908 ప్రకారంగాని Criminal Procedure Codeను బట్టిగాని ఏదేని Order - decree పైనగాని లేదా విధింపబడిన శిక్షపైగాని Revision దాఖలు చేయుటకు గడువు 90 రోజులు మాత్రమే. Decree లేదా Order pass చేయబడిన తేదీ నుండి గాని ముద్దాయికి శిక్ష విధింపబడిన తేదీ నుండిగాని 90 రోజులలోగా సదరు రివిజన్ దాఖలు చేయాలి. లేనిచో కాలదోషం పట్టును.

Provincial Small Cause Courts Act Sec 25 పైన పైకోర్టుకు రివిజన్ దాఖలు చేయుటకు ఆ Act లో Provision లేనందున ఈ article apply చేయనగును. గడువు 90 రోజులు మాత్రమే.

1. Uday Bhan vs Harl Sankar, AIR 1984, SC 1469.

Description of Suits	Period of Limitation	Time from which Period begins to run
132. To the High Court for certificate of fitness to appeal to the Supreme Court under cl(1) or Art. 132, Art. 133 or sub-clause (C) of Clause (1) of Art. 134 of the constitution or under any other law for the time being in force.	Sixty Days.	The date of the decree order of sentence.

COMMENTARY

This article relates to filing of application before the High Courts for granting a Certificate of fitness to appeal to the Supreme Court of India. The application are for all matters which are governed by Article 13 (1) viz., civil, Criminal and cases where interpretation of constitution is involved. If the High Court gives such a certificate, the Supreme Court would receive the same for hearing. If the High Court refuses to grant such a certificate, still, the aggrieved party can move the Supreme Court by filing a special Leave application.

All Civil matters where application for certificate of fitness is applied for would be governed by article 133 of constitution of India.

In all criminal matters where an application for fitness certificate is sought Article 134 (1) (c) of Constitution of India applies and it also applies for such certificate under any other Law for the time being in force.

The time granted to file the application narrated above is Sixty days (60) from the date of decree or order of sentence.

It was held by the Calcutta High Court that time taken to obtain a certified copy of Decree and Judgement can be excluded while computing the period of limitation to file an application for granting a certificate of fitness to appeal to Supreme Court¹.

1. State vs Midrapore Commercial Co., AIR 1978, Cal 358 FB.

వివరణ

ఏదైనా హైకోర్టు డిక్రీపైగాని హైకోర్టుచే విధింపబడిన శిక్షపైగాని సుప్రీం కోర్టుకు అప్పీలు చేసికొనుటకు "Certification of fitness కొరకు ధర్మాస్తు చేయవచ్చును. అనగా ఈ వ్యవహారం సుప్రీంకోర్టు వారిచే విచారణ చేయదగినదే" అని హైకోర్టు సిర్డఫికేటు ఇస్తే సుప్రీంకోర్టు ఆ అప్పీలును స్వీకరించి వినును. ఇందుకు Constitution of India చట్టములో 32, 133, మరియు 134 ఆర్టికల్స్ అవకాశం కల్పించుచున్నవి. సివిల్ వ్యవహారములపై అప్పీలు - క్రిమినల్ కేసులో విధించబడిన శిక్షపై అప్పీలు - మరియు ఇతర చట్టములకు సంబంధించిన వ్యవహారములపై సుప్రీం కోర్టులో అప్పీలు దాఖలు చేసికొనుటకు Fitness Certificate ఇప్పించమని హైకోర్టులో పిటిషన్ దాఖలు చేయుటకు గడువు 60 (అరవై) రోజులు మాత్రమే. హైకోర్టు డిక్రీ Pass చేసిన తేదీ నుండి 60 రోజులు లెక్కింప వలసి యున్నది.

Description of Suits	Period of Limitation	Time from which Period begins to run
133. To the Supreme Court for special Leave appeal--		
(a) In a case involving death sentence.	Sixty Days.	The date of judgement final order or sentence.
(b) in a case where leave to appeal was refused by the High Court.	Sixty Days	The date of the order of refusal.
(c) In any other case	Ninty Days.	The date of the Judgement or Order.

COMMENTARY

Where certificate of fitness to appeal to supreme Court is refused, the aggrieved party can seek special leave of Supreme Court to file an appeal against the decree order of Sentence passed by the High Court.

In case where death sentence is imposed on the accused time granted to seek special leave of the Supreme Court to file an appeal against death sentence is Sixty (60) days from the date of Judgement, final order or sentence.

In a case where certificate of fitness is not granted by High Court the aggrie departy can seek special leave from supreme court and the time granted for such special leave application in 60 (Sixty) day from the date of refusal.

In any other case to file a special leave petition a period of 90 day in given from the date of Judgement or order.

The Supreme Court under authority vested in it by Law amended its Rules, Rule 1 of Order XXIII by substituting as follows:

Subject ot the provisions of Sections 4, 5, 12 and 14 of the Limitation Act 1963 (36 of 1963) a petition for special leave to appeal shall be lodged in the Court in a case where certificate for leave to appeal in refused by the High Court within Sixty days from the date of order of refusal and in any other case within ninty days from the date of Judgement or order sought to be appealed¹.

వివరణ

సుప్రీంకోర్టుకు అప్పీలు చేయుటకు Special leave నిమిత్తం ధరఖాస్తు చేయుటకు సుప్రీంకోర్టు వారే రూల్సు చేసినారు. సుప్రీంకోర్టు రూల్సు Order XXIII Rule 1 ప్రకారం హైకోర్టుచే తిరస్కరింపబడిన వ్యవహారములపై Special leave కోరుటకు ధరఖాస్తు చేయుటకు - తిరస్కరింపబడిన తేదీ నుండి 60 రోజులు గడువుగా నిర్ణయించినారు. మరే యితర జడ్జిమెంటు డిక్రీ ఆర్డరు తేదీ లగాయతు 90 (Ninety) రోజులు అని తెలుసుకోవాలి.

Description of Suits	Period of Limitation	Time from which Period begins to run
134. For delivery of possession by a purchaser of immoveable property at a sale in execution of decree.	One Year	When the sale becomes absolute.

COMMENTARY

This refers to an application to the filed for delivery of imovable property purchased in execution in a court auction. Time runs from the date when Sale becomes absolute the period of limitation is One year.

The application has got to be filed under Rule 95 of Order XXI of the Code of Civil Procedure Act V of 1908.

The Purchaser may be a Decree - holder or a Stranger. It applies to both².

1. Parthasarathy vs State of A.P., AIR 1966, SC Page 38, = 1965 (2) Anwr Sc 174, = 1965 (2) SC ALT Page 166.)

2. Abdul Aziz vs Choken, AIR 1935, Mad F.B. Page 803.

When the proceeding started during course of execution to a final termination that it can be said that the Court Sale has become absolute¹.

Auction Sales - Delivery of Property Auction Sales : Limitation to take delivery of Possession of Auctioned Land is one year from the date of Confirmation of Sale. (not the date of issuance of Sale Certificate). If Petition for delivery is not filed, the remedy of Auction Purchaser is to file Suit for Possession².

Confirmation of Sale - Filing of Appeal : In an Auction Sales period of Limitation for obtaining delivery of Property is one year.

When an Appeal was filed to set aside Sale, limitation of one year commences from the date of decree passed in Appeal in highest Court and not from the date of Commencement of Sale³.

Auction Sales - Delivery of Property : Petition to obtain delivery of Property to be filed within one year from the date of Confirmation of Sale and not the date when sale certificate was given⁴.

State - Delay in filing : Delay in Filing LPA by State, When the state is Applicant Praying for condonation of delay, certain amount of Latitude is not impermissible State not to be put as an individual⁵.

Confirmation of Sale - Filing of Appeal Delivery of Possession : In an Auction sales Period of Limitation for obtaining delivery of Property isn one year. When an Appeal was filed to set aside Sale, limitation of one year commences from the date of decree passed in Appeal in highest Court and not from the date of Confirmation of Sale⁶.

EP for Delivery of Property to be filed within one year from Date of Confirmation of Sale. When Appeals are filed, Delivery of Possession of Property can be obtained by filing E.P. within one year from the date when highest court Passess order.

వివరణ

డీక్రీ అమలు జరుపుటలో వేలం వేయబడిన స్థిరాస్తిని కొనుగోలు చేసిన ఆస్వామీ సదరాస్తిని స్వాధీనపరచమని కోరుచు పిటీషను దాఖలు చేయుటకు గడువు ఒక్క సంవత్సరం. వేయబడిన వేలం Absolute అయినప్పటి నుండి ఒక్క సంవత్సరం అని తెలియదగును.

1. Kamakshi Ammal vs Kamakkani Ammal, AIR 1957, Mad 440 DB.

2. 1997 (1) ALT 20.

3. Srungavarapu Venkateswara Rao vs Kolla Ramaiah, 1997(6) 265.

4. Pakkam Khader Khan vs pattam Sardar Khan 96(5), Supreme 358 = 96(3) ALT 21 DN.

5. State of Haryana vs Chandramani (96(5) Supreme 75 = 96(3) ALT 11 (D.A.))

6. Srungavarapu Venkateswara Rao vs Kolla Ramaiah, 1997(6), ALT 265.

కోర్టు వేలంలో కొనుగోలు చేసిన ఆసామీ డిక్రీ హోల్డ్ రూకావచ్చు లేదా మరియొక్కరైన కావచ్చు. కొనుగోలు చేసిన స్థిరాస్తి స్వాధీనం నిమిత్తం వేలం Absolute అయిన ఒక్క సంవత్సరంలో ధరఖాస్తు చెయ్యాలి. లేనిచో కాలదోషం పట్టును.

Description of Suits	Period of Limitation	Time from which Period begins to run
135. For the enforcement of a decree granting a mandatory injunction.	Three Years.	The date of the decree or where a date is fixed for performance, such date.

COMMENTARY

To execute a decree passed for mandatory injunction time granted is 3 years from the date of the decree or where a date is fixed for performance from such date. If execution is not taken within 3 years the decree becomes inexecutable.

It may be noted that this article also had a reference to provisions of specific Relief Act.

Where a decree granted mandatory injunction directed the defendant to demolish the alleged construction made by them within one month, limitation for execution of such decree would begin to run from expiry of one month from the date of decree when it becomes executantle¹.

వివరణ

ఈయబడిన Mandatory injunction అమలు జరిపించుకొనుటకు గడువు 3 సంవత్సరాలు. డిక్రీ ఈయబడిన తేదీ లగాయతుగాని లేదా ఏ తేదీ నుండి డిక్రీ అమలు జరుపవలెనని వ్రాయబడినదో అప్పటి నుండిగాని 3 సంవత్సరములలోగా Execution చేయించాలి. లేనిచో డిక్రీ inexecutable అవుతుంది. అమలు జరిపించుటకు వీలు లేకుండా పోతుంది.

1. Ishq Ahmed vs K. Bili, AIR 1985, Ori 102.

Description of Suits	Period of Limitation	Time from which Period begins to run
136. For the execution of any decree (other than decree granting a mandatory injunction) or order of any Civil Court.	Twelve Years	Where the decree or order becomes enforceable or where the decree or any subsequent order directs any payment of money or the delivery of any property to be made at a certain date or at recurring periods, when default in making the payment of delivery in respect of which execution is sought takes place; Provided that an application for the enforcement of execution of a decree granting a perpetual injunction shall not be subject to any period of limitation.

COMMENTARY

This had a reference to old Article 182 of the Repealed Limitation Act of 1908. Several Changes have been incorporated in this present article.

This article prescribes a maximum period of 12 years for execution of a decree or an order of the Court. The only exception is a decree for mandatory injunction for execution of which a period of 3 years is fixed under article 135 of this Act.

This article applies to all decrees except a decree granting an injunction.

If an execution petition filed within time is dismissed for default it can be restored to file under Order XXI Rule 106 of the Code of Civil Procedure Act V of 1908.

When once it is restored it relates back to the date of original filing and the loss of limitation vanishes¹.

Under the present Act even the first execution application can be filed within a period of 12 years except where a decree grants an injunction.

1. Govinda Chandra vs Pal Hira, AIR 1985, Ori 178.

Decrees or orders made by the High Court in writ proceeding are governed by this article. (Old article 183)¹.

It was held that time must be reckoned from the date of the decree that is sought to be enforced i.e. if there is an appeal, it is the appellate decree and if there is an amendment it is from the date of amended decree in the light of the express language of the Article. When the decree becomes enforceable².

Where an execution petition can be deemed not to have been finally disposed of and treated in the eye of Law as still pending it can be revived³.

Mere striking or the execution application does not amount to any order deciding the merits of the case and therefore, the subsequent application which was made is a continuation of execution proceedings⁴.

Restitution proceedings under Section 144 of the Code of Civil Procedure Act V of 1908 in execution of a decree are governed by this Article⁵.

Injunction - No Limitation : There is no Limitation for enforcing Injunction. It can be enforced at any time when violation takes places⁶.

A.P. Panchayat Raj Audit Surcharge, Disallowance Rules : Limitation to recover Amount ordered in Surcharge Certificate starts after Expiry of Surcharge Notice. The time Limitation is 12 years⁷.

Decree Amendment - Limitation : Under Decree in Amended substantially Limitation starts from the date of Amended Decree⁸.

Recovery Amount Paid under Mistake : Mistake becomes known on account of a finding given in Suit, starting Point for Limitation is date of Judgement of Trial Court and not that of Appellate Court which Confirmed the decree⁹.

Amendment of Decree - Execution of Decree - Limitation : There is an omission to incorporate time Limit in Decree due to mistake of

1. Venkata Subbayya vs District Collector, AIR 1969, AP Page 331.

2. Fathimun Munmissa Begam vs Mohamed Zabibuddin Sahel, AIR 1986, AP 355.

3. Sundaramma vs Abdul Khadal, ILR 56, Mad 490 FB.

4. Sati Raja vs Dasuram, AIR 1976, SC Page 2486.

5. Mahiyahibai Barot vs Patel Moti Bai, AIR 1965, SC 1477.

6. M.J. Simon vs Special errade Panchayat, AIR 2001 (Kerala) 132.

7. M. Chenniah vs E.O., 1983 (2) ALT 63 (NRC) = 83(2), APLJ 50 = 84(2) An.W.R. 218.

8. Fakimunnisa Begam vs Md. Zaimedavuddin, 85(2) ALT 473 = 85(3) APLJ 186 = 86 (2) An.W.R 2 = AIR 86 A.P. 355.

9. Parvathipuram Municipality vs O. Seeta Rama Swamy, 75(1) APLJ 173.

Court, Amendment Petition filed by D.H.r for Amending Decree was filed and it was allowed. Limitation starts from the date of Amended Decree¹.

Execution Application Seeking Possession of Land - within 12 year - valid².

Redemption Suit : Filed after 58 years - Suit held was barred by Limitation³.

Suit for specific performance decreed, time limit obtain execution of decree not spiefied.

Decree Amended subsequently limitation Commences from the date of Amended decree⁴.

When Appeal is filed Limitation Commences only from the date of Appellate decree and not from date of original decree⁵.

J. Drs Property purchased by D.H.r in execution sale D.H.r failed to pay necessary stamps.

This sale was set aside, Application for restoration of Sale dismissed, Revision was filed, against held was step in Execution. E.P. within 3 years held was within time⁶.

Limitation will not begin to run from the date when mere a direction is given to pass a final Decree. It becomes executable. When it is engrossed on stamped papers⁷.

An application for declaration that Sale was void is governed by Article 137 and must be brought within 3 years of accrual of right to apply. Where Sale is voidable, Application to aside to be filed within 30 days of Sale⁸.

వివరణ

ఏదేని సివిల్ కోర్టు డిక్రీనిగాని లేదా ఆర్డరునుగాని అమలు పరచుటకు గడువు 12 సంవత్సరములుగా నిర్ణయించడమైనది. గడువు లెక్కించుటకు డిక్రీ తేదీగాని ఆర్డరు తేదీ నుండిగాని లెక్కించవలెను.

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1. Bateh Appala Swamy vs Ravada Annapoorna, 97(2), ALT 141 = 97(2) ALD 794.
 2. Deepchand vs Mohan Lal, AIR 2000, SC 1760.
 3. AIR 2000, SC 3146, Smt. Dibbo vs Dhanraji, AIR 2000, SC 3146.
 4. 97 (2) ALT 141 = 97(2) AID 794.
 5. N. Veeraja vs Sri K. Kamakshi Ammavari Temple, 97(1) ALT 591 = 97(1) ALD 716.
 6. AIR 1979, 1818.
 7. AIR 1995, SC 1211.
 8. AIR 1956, SC 87.

ఏదేని డిక్రీపై అప్పీలు చేస్తే అప్పీలులో ఈయబడిన డిక్రీ నుండి 12 సంవత్సరములు అని తెలుసుకోవాలి.

ఇది Mandatory ఇంజక్షన్ల డిక్రీలకు వర్తించదు.

అయితే డిక్రీలోనే చెల్లించవలసిన సాములకు గాని, స్వాధీనం చేయవలసిన అస్తికిగాని గడువు నిర్ణయిస్తే - ఆ గడువు లోపుగా సాము ఈయకపోయినా, అస్తి స్వాధీనం చేయకపోయినా ఆయా తేదీల నుండి గడువు లెక్కించవలెను.

Perpetual Injunctionsకి ఈ article వర్తించదు.

పైన వ్రాయబడిన తీర్పులు గమనించవలెను.

Description of Suits	Period of Limitation	Time from which Period begins to run
137. Any other application for which no period of limitation is provided else where in this division.	Three Years.	-- When right to apply accrues.

COMMENTARY

A Period of three years is provided as limitation for any other application for which no period of limitation is provided else where in the third division of the Schedule of Limitation Act and time begins to run from the date the right to apply accrues.

This is in the general and applies where no limitation is provided for applications.

In the matter of substitution under Order XXII CP Code period of limitation would be three years as provided by Article 137 and not by article 120¹.

This article in its changed form will apply to any petition or application filed under any Act to Civil Court².

An application under Sec 151 of CP Code (ACT V of 1908) for substitution or heirs in revision - This article applies³.

Petition to set aside sale in Execution : Claimant not a party to Suit filed Suit in 30 days from the date of his knowledge to set aside sale, held valid⁴.

1. Shankar D. Bhattacharya vs Jyotermayee Devi, AIR 1998, Cal 55.

2. Kerala S.E. Board vs Kunhalinamma, AIR 1977, SC 282.

3. Chandra Dev Pandey vs Sakhdev, AIR 1972, All 504 FB.

4. T. Annaporna vs T. Dagradhi, 2001 (2) ALT 456 = 2001 (2), ALD 508 = 2001 (1) Ls 313.

Adding Legal Heirs in Suit : If some Legal Heirs are brought on record, other L.R.s can come on record within 3 years of the date of death¹.

Final Decree : Petition to Pass Final Decree to be filed within 3 years from the date fixed for Payment².

Limitation to execute Decree : If Stay is not granted mere filing of Appeal would not Save the Limitation³.

Chit Transaction : In Chit transaction for the Amount due under Chit transaction, Limitation starts from the date when default is committed and not from any anterior date or from date of pronote⁴.

Personal Decree - Limitation : It was found that Hypothecated Property not available for Sale, the right to apply for personal decree accrues when Mortgaged Property proceeds is not sufficient, or When hypotheca was not found. 3 Years Limitation starts from the date when Mortgage Proceeds are not sufficient, when hypotheca is not traceable⁵.

Maintenance Decree - Charge over Properties : Maintenance decree is a recurring one, charge is executable on any one of the charge Propries No Equities are applicable⁶.

If no final settlement of Accounts is made even if contract is terminated, claims submitted by contractor are not barred⁷.

Arbitration : When Arbitration clauses existence, validity are challenged - Limitation starts from the date when Arbitration clause is disclosed⁸.

వివరణ

ఈ షెడ్యూలు ఈ డివిజన్‌లో ఏదేని application దాఖలు చేయుటకు గడువు నిర్ణయించి ఉండకపోతే దానికి గడువు మూడు సంవత్సరాలని తెలియదగును. ధరఖాస్తు చేయుటకు హక్కు కలిగిన తేదీ నుండి 3 సంవత్సరాలు.

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1. D. Amuaxemma vs D. Rami Reddi, 1978 (2) An.W.R. 34.
 2. Union Bank of India vs N. Singaramma, 1988(1) ALT 275.
 3. AIR 2001 SC 279, Rakan Singh vs Vijay Singh.
 4. Sudarshan Chit Funds vs Srinivas Jyothi Devi, 87(2) ALT 44 (NRC).
 5. R. Ramakrishan Reddy vs Syndicate Bank, Cudapah, 84 (1) ALT 81 = 84(2) An. WR. 38.
 6. Adusumilli Sessa Rakhani vs A. Jhansi Lakshmi Bai, 96(3) ALT 915 = 96(4) ALD 138.
 7. State of A.P. vs P. Somasekha Rao, 97(2) ALT 551.
 8. Mohka Alloys Steal Works vs Mohta Finance & Leasing Co., AIR 2002 SC 480.

FILING OF APPEAL IN A WRONG COURT

is a sufficient cause to condone delay.

1982 (2) ALT 477 is

Case. Veeraiiah Vs. P. Adinarayana

Execution Proceedings

Section 5 Limitation Act is not applicable to EP. Proceedings
1988 (2) ALT 639.

It is not open to make, 2nd copy Application without taking recourse to restore 1st copy application, Appeal filed was held time barred. 1988 (2) ALT 233 D. Venkata Narayana Vs. P.R.Rao

Copy Application Struck off and restored time taken is available for computation of period of Limitation for filing appeal.

1972 APHN 244 = 77 (2) APLJ 45 Sn

Mistaken Advice by counsel Resort to wrong remedy Facts prove delay not wilful section 5 is Limitation Act-Held applicable.

1989 (2) ALT 43 (NRC)

Suit Filed beyond 3 years after attaining Majority for possession is Barred by Limitation 78 (1) ALT 266 = 78 APHN 121.

Suit Filed by After horn sons - for setting aside sale made by their grand Father - 12 years after Alliance taking Possession not maintainable 1974 (2) APLJ 68, M. Mutyalu Vs. M. Appayalingam.

Suit for setting aside alienation made by Father - By after Born son - Limitation is under section 6 and Article 126.

1968 (1) ALT 942 68(1) An. W.R. 236 AIR 1969 AP 24.

Person vested with possession ownership or control over Property - He is a Trustee. 1971 (2) APLJ 87 (NRC)

Ex-Trustee cannot setup Adverse Title - Suit is not barred against him.

AS 386/65 : Sesha Reddy Vs. Siddeswara Swamy.

Copy Application is Restored : Exclusion Period also gets Restored.

Iqbal Singh Vs. A.V. Subba Rao 1973 AP 193=73 (2) An. WR-70.

Filing Case in a wrong court by bonafide mistake, not because of any want of due care and attention on the Part of plaintiff is only ground the **get the time taken in wrong court** Excluded.

1986 (1) **ALT** 173 B Seetaramaiah Vs. C. Appa Rao.

Payment made by Cheque before the Expiry of the Period of Limitation - Saves Limitation.

1972 APHN 164.

To Constitute Acknowledgement of Debt specific amount need not be mentioned, acknowledging relationship of Debtor and Creditor and subsisting liability is enough.

1969 (2) AP2J 279 = M. Satyanarayana Vs. T. Chalamayya Choudry.

Suit for Recovery of money Based on money deposited by plaintiff Article - 22 Applies Limitation starts from date of demand.

1978 (2) **ALT** 14 NRC = 78 (2) APLJ-10 (NRC)=

In Agreement Time fixed for Repayment is 3 years debtor failed to repay the amount suit filed within 3 years after expiry of period agreed is valid.

Shazadi Begum Saheba Vs. Giridharlal Sanghi. 1976 (1) An.W.R.416.

Loan or Deposit - Distinction Time runs only from the date when demand was made 1988 (2) **ALT** 65 K. Santa Kumari Vs. K.R. Rao.

Waiver of Article 37 - Limitation If waiver of Article 37 is not made, on failure to Pay instalment 1976 entire amount becomes due, suit filed in 1980 was held bared by Limitation.

Union Bank of India. In to 1985 (1) **ALT** 112 (NRC) = 1985 (3) APLJ 4(NRC).

Minor's Property Transferred : Minor within 3 years from date of attaining Majority can challenge the alienation. K. Sundararami Reddy Vs. B. Seshiah 1977 **ALT** 38.

Lessee denying Title of lessor in 1984, Amendment filed in 1990 was held not time bared. S. Babu Rao Vs. V. Suryanarayana 1993 (2) **ALT** 317.

Joint Promissory Note : executed by Husband and wife, Husband alone executing letter of Acknowledgement, suit against wife held time barred. P. Mahalaxmayya Vs. N. Papa Rao, A.S. No. 625/80.

Payment by cheque before Period of Limitation = saves Limitation.

1972 APHN 164

Distonour of Cheque would not serve the purpose of Acknowledgement.

TVK sharma Vs. M.V. Subbaiah 1970 (2) APLJ 49 (SN)

Chits - Suits

Suit for recovery on pronote for recovery suit within 3 years from date of default in Payment of Instalments is not time barred M/S Sudarshan Chief Fund Vs. M.S. Srinivas Jyothi. 1987 (2) ALT 44 (NRC)

Amount Agreed to be payable in 3 years, suit filed after the said agreed period within 3 years thereafter is held valid, Article 19 is not applicable Such suits are governed by Article 113.

Deposit - Loan - Distinction In case of deposits, the limitation runs from the date when demand was made.

K. Sarukha Kumari Vs. Kannagolla Ramachandra Rao 1988 (2) ALT 165.

Loan Amount Payable in Instalments, suit filed within 3 years from the date of instalments due is valid Rayalaseema Enronion Bank Vs. Yohan, 1988 (2) ALT 831.

Trust Property - Sold by Trustee - Suit filed within 12 years of Transfer for declaration that transfer is void was held not time Barred.

D. Krishna Murty Vs. C. Ramana 1993 (2) ALT 414.

Suit for Possession based on title, failure of dependant to show title or adverse possession, plaintiffs suit to be decreed. Seetaramaraju Vs. Venkata narasamma 1971 (5) ALT 211 = 72 (1) An. Wr 191.

Evidence establishes Permissive Possession of Defendaments payment of tax my defendament will not become adverse possession shiv shankar Vs. Sadasiva Reddy 1990 (2) An-WR 511.

Co-Owners - suit for Accounts filed within 3 years of demanding Account by notice is held within time K. Subba Rao Vs. P. Sri Ramulu AIR 1970 AP 258.

Jewels deposited for seeking money in 1975, Limitation suit for return of Jewels runs only from **date of refusal to** return them.

T. Suryanarayana Vs. L. Sanyasulu 1984 (2) ALT 64.

Plea of Limitation at Appellate stage : Can be allowed if it is a pure question of Law.

E. Sri Ranga Rao Vs. Sampath Rao 1990 (1) AN. W.R.6.

Death of D. HI in Pending E.P. Proceedings, Legal heirs can be brought on record, no time Limit is fixed K. Damodar Gupta Vs. K.V.Rao 1979 (1) ALT 372 = 79 (2) An. WR 476.

Ex parte Decree - Setting Aside petition filed to set aside Ex parte decree Limitation 30 days of obtaining certified copies of judgement - held not barred K.R. Venkaiah Vs. M.H.S. Sangam 1992 (2) ALT 333.

Co-Heir of Mohammedan Maker part Payment - Limitation is saved against other co-heirs 73(2) APLJ 306.

Distanoured Cheque : Will not save limitation nor serve as acknowledgement of Liability 70 (2) APLJ 49 TVK Sharma & Co. Vs. M.V. Subbaiah.

Suit Filed Against Dead Person not void legal heirs can be added if omission was due to bonafide mistake 1978 (2) AN. W. R.66=78 L.s.108=78AP 279 R Rajalakshamma Vs. R. Kannaiah.

Acknowledgement of Liability not only save period of Limitation but gives cause of action to plaintiff to Base its claims.

2002 (9) SCALE 734 = 2003 AIR, Sew - 136

Permissive Possession of Supervisor of Ex-Ruler of Kolhapur States, held not adverse possession. AITC = 2003 Bombay 80.

Default of Advocate in intimating the result of in W.P. is held a sufficient ground for condoning the delay D. Swamy Vs. KSRTC 2002 SC 2545.

Decree - Execution : Limitation for Execution of Decree starts from date of Appellate court Decree and not from trial court decree P.T. Xavier Vs. Lney V. Repaly 2002 Kerala 146.

Suit on Basis of Mutual Account suit filed Limitation 3 years from date of payment after last supply - Suit is within Limitation. 2002 Delhi 179.

Lessee cannot acquire title by adverse possession : K.L. Bapuji Vs. Govt. of A.P. AIR 2002 SC 1012.

Limitation Act Bars remedy only it will not extinguish the defence.

Defendant obtaining possession over property in part performance of contract, he is entitled to property if he fulfils the conditions.

S.S. Suryavanshi Vs. P.B. Suryavarshi AIR 2002 SC 960.

"Defect of Jurisdiction" for cases decided after adjudication permission to withdraw, suit can not be entertained, section 14 would not apply.

Deena Vs. Bharat Singh.

AIR 2002 SC 2768.

Abatement of Appeal due to Failure to substitute legal heirs
Limitation time prescribed - Appellant Rural, Illiterate People so held
that there is no Presumption that delay is always deliberate, should
show utmost consideration to suitor court.

SC has condoned delay - SC has set aside abatement

AIR 2002 SC 1201 Ram Nakh Sao Vs. R.N. Sahu.

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16	3rd Para	Carrac	Care
41	2nd Para, 1st Line	Apposite	Opposite
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44	5th Para, 2nd Line	Feet	Fact
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189	Last Para, 1st Line	వారసతవ్వ	వారసత్వ
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216	1st Para, Last Line	Oustruction	Obstruction
216	2nd Para, 2nd Line	defanded	debarred
224	1st Para	3 Years	12 Years
228	6th Para, 3rd Line	Charge Propries	Charged Properties
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